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## Appeal Decision

Site visit made on 20 September 2020

**by J E Jolly BA (Hons) MA MSc CIH MRTPI**

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

**Decision date: 7 October 2021**

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**Appeal Ref: APP/L2250/W/20/3263530**

**Land adjoining 1 Railway Cottages, Duck Street, Elham, CT4 6TP**

- 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 Vincent against the decision of Folkestone & Hythe District Council.
  - The application Ref Y19/0248/FH, dated 20 February 2019, was refused by notice dated 30 September 2020.
  - The development proposed is for an outline application for the erection of three detached dwellings together with details of layout and access, improvements to the existing access with a short realignment of Duck Street.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The planning application was submitted in outline form with matters other than access and layout reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as indicative and show what may, not necessarily what will, be constructed.
3. On 20 July 2021, the Government published its revised *National Planning Policy Framework* (the Framework). The Framework represents the Government's up-to-date planning policies for England and how they should be applied. Planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration where it is relevant to a planning application or appeal. I note however, in this case, that the main parties have made no further comments in respect of these changes.
4. The Council has brought to my attention that the emerging policies in the Folkestone and Hythe District Places and Policies Local Plan 2020, (PPLP), which it relied upon in its decision notice have been adopted and are to be afforded full weight. I have proceeded accordingly.

### Main Issues

5. The main issues are the effect of the proposal on:
  - the character and appearance of the surrounding area, including the Kent Downs Area of Outstanding Natural Beauty (AONB) with respect to planning policy and national policy, and;
  - whether the proposal is in a suitable location for residential development.

## Reasons

### AONB

6. The main parties agree that the proposed development would be in the AONB, and thus for planning purposes in the countryside. As such, the development must conserve and enhance the landscape and scenic beauty of the AONB as required by Paragraph 176 of the Framework, which aims include that the scale and extent of development within the AONB should be limited; to which I attach great weight.
7. The appeal site is located just beyond the boundary of the settlement of Elham between the dwellings known as Nos 1 and 2 'Railway Cottages' and the properties on Duck Street. The immediate surrounding area is predominantly characterised by detached dwellings within the settlement boundary facing onto a road, other than Nos 1 and 2 'Railway Cottages' which are a pair of semi-detached modest older style dwellings sited outside the settlement boundary of Elham, which is typified by a relatively tight-knit built environment that peters-out along smaller roads that connect to the countryside beyond .
8. The sloping appeal plot is found to the right-hand side of 'Railway Cottages' when viewed from the road and is a paddock type field that is bounded by fences and hedges that separate the dwellings and gardens of the properties found on 'The Halt' and that of 'Sleepers Cottage'. To the front the open-access appeal site looks directly onto the highway and towards agricultural type fields that form part of the AONB. The wide rolling and tree-lined fields provide wider and unfettered views of the AONB. To the left-hand side of the site when looking towards the rear boundary there is an agricultural field which can be glimpsed through an access gap in the hedgerow.
9. The proposal is to construct 3 new detached dwellings on the appeal site that would include improvements to the existing access as part of a minor realignment of Duck Street. The new dwellings would look onto the access road that would have a turning head and a passing lay-by on one side.
10. I acknowledge that there have been previous permissions for residential development on the appeal site. However, given the passage of time and the limited information before me in respect of those schemes, as is correct, I have considered the proposal on its own planning merits.
11. As such, the proposal would be located on a grassed sloping site that would sit between and near to existing residential development. However, while the access and layout would be such that the development would be setback from the road, it would nonetheless introduce extensive areas of hard-surfacing that would include a new footway, an access road, parking spaces, a turning head and a passing lay-by into this specific area of the AONB where currently there is not. Indeed, while I acknowledge that there is other residential development nearby, such as that found on 'The Halt' , the fact remains that these dwellings lay within the settlement boundary of Elham, or, for example, in the case of the adjacent Nos 1 and 2 'Railway Cottages', are of a certain vintage to suggest that they were permitted under a different development plan altogether.

12. Moreover, I noted at my site visit that the simple cottages in combination with the adjacent appeal site provide a gentle transition in to the countryside from the relatively clustered built environment of Elham. Indeed, in this specific location, the spacious beauty of the rural type site, that is directly adjacent to fields within the AONB, would be eroded by the engineered access way and the urban type layout of the proposal.
13. Furthermore, notwithstanding the proposed infilling of the existing hedged access gap, as the development could be readily seen from the highway, a nearby footway and across the rising fields to the front of the appeal site, I am not persuaded by the Appellants' submitted 'Landscape and Visual Impact Assessment' that the impact of the proposal on the AONB would be neutral. To the contrary, even if new landscaping were to mature over time, and notwithstanding the sloping topography, the proposal would nevertheless be an unexpected and intrusive form of hammer-head development with a formalised access in a rural location where development is generally limited.
14. Consequently, I conclude that the access and layout of the proposal would harm the character and appearance of the surrounding area, and hence fail to conserve or enhance the scenic beauty of the AONB.
15. Accordingly, in respect of the AONB the proposal does not meet the aims of the PPLP when read as a whole and Policies SS1 and SS3, of the Core Strategy 2020, Policies SS1, SS3 and CSD3, of the Shepway Core Strategy 2013, (SCS) and the emerging Core Strategy Review 2020, (SCS20) which say, amongst other things, that in all locations throughout the district, development should be designed to directly contribute to the sense of place and sustainable design.
16. For similar reasons, the development is contrary to the requirements of Paragraph 176 of the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty.

#### *Suitable location*

17. Notwithstanding the reasons for refusal set out in the Council's decision notice, my attention has been drawn by the Appellant to the findings of the Council related to a suitable location in respect of the proposal. As such, under the terms of the 'Braintree Judgement' 2017<sup>1</sup>, I acknowledge that the site is not an 'isolated' location in the countryside. Nonetheless, the suitability of the location for residential dwellings should still be considered in respect of access to local services and facilities.
18. While there is a limited number of services and facilities available to the future occupiers of the proposal in Elham, such as a primary school, a public house, a farmers market, a takeaway, a church and a post-office, there is nevertheless a more attractive range of day to day services, such as larger shops, secondary schools, restaurants, public-houses and leisure facilities, as well as train stations and greater employment opportunities that can be found, for example, in Folkestone which is somewhat further afield. Therefore, given the distance involved it is likely that those services would be accessed by a private motor vehicle. It follows then that the proposal for 3 new dwellings would be likely to generate additional journeys to and from Elham.

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<sup>1</sup> Braintree District Council v SSCLG & Ors (2017) EWHC 2743

19. Consequently, notwithstanding that the occupiers of the proposed development might choose to travel by private motor vehicles in a similar way to other residents, the nature of the highways and the limited availability of public transport in this location would inevitably result in a dependency on private motor vehicles by those occupiers in respect of access to those day to day services.
20. Therefore, in respect of a suitable location, the proposal does not meet the aims of the PPLP when read as a whole and Policies SS1 and SS3, of the Core Strategy 2020, Policies SS1, SS3 and CSD3, of the Shepway Core Strategy 2013, (SCS) and the emerging Core Strategy Review 2020, (SCS20) which aims include that proposals for new development in locations outside the settlement hierarchy may only be allowed if a rural location is essential, and the Framework.

### **Conclusions**

21. For the reasons given above I conclude that the appeal should be dismissed.

*J E JOLLY*

INSPECTOR