



Appeal Decisions

Site Visit made on 22 September 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 OCTOBER 2021

Appeal A Ref: APP/H2265/W/21/3272270

Stables, Broadwater Road, West Malling ME19 6HT

- 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 Mr Sunnucks against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/20/01371/FL, dated 30 June 2020, was refused by notice dated 7 October 2020.
 - The development proposed is demolition of existing stables and various outbuildings with the erection of two new residential dwellings with associated access and parking/garaging.
-

Appeal B Ref: APP/H2265/W/21/3278509

Broadwater Stables, Broadwater Road, West Malling ME19 6HT

- 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 Mr K Sunnucks against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/00945/FL, dated 18 May 2021, was refused by notice dated 1 July 2021.
 - The development proposed is clearance of existing stables and outbuildings and erection of 3 no. detached dwellings with associated access, parking, garaging and amenity.
-

Decision

1. Appeal A and Appeal B are both dismissed.

Application for costs – Appeal B

2. An application for costs was made by Mr K Sunnucks against Tonbridge and Malling Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed developments on the character and appearance of the area.

Reasons

Appeal A and B

4. The appeal site comprises part of the land associated with Broadwater Stables. There are some buildings on the site, however the rest of Broadwater Stables and the wider surroundings are generally open fields. The railway line between West and East Malling is to the north of the site. There is a dwelling on the adjoining plot which includes some outbuildings, and there is some sporadic

development elsewhere along Broadwater Road. Nevertheless, taking all the above into account, the site is in the countryside.

5. The four buildings on the site comprise a mobile home used as an office, a stable building, a store/shed, and an open sided storage/stable. The scale and appearance of the buildings is typical of a rural, equestrian use, albeit that the mobile home is somewhat incongruous when seen with the buildings constructed in more traditional materials. Nevertheless, taken together the buildings on the site are appropriate to the character and appearance of the land and its surroundings. These buildings and an area of hardstanding are located close together in one corner of the site.

Appeal A

6. The proposed development would introduce two substantial residential dwellings to the appeal site. Although the footprint of the new dwellings would be less than that of the existing buildings, they would be significantly larger in terms of their bulk, height, and massing.
7. The dwellings along with their associated domestic accesses, parking and likely residential paraphernalia would be an urban form of development which would cover a significant portion of the site. They would replace existing buildings, would be spacious in their plots and would align with the neighbouring dwelling. However, the scale and form of the urban development proposed would nevertheless harmfully erode the pleasant intrinsic character of this rural and mainly undeveloped countryside land.

Appeal B

8. This proposal includes three dwellings arranged in a courtyard style, following a traditional farm layout. The three separate residential uses within their own defined plots would be clearly legible as three independent houses with parking on a shared domestic driveway. The dwellings and their gardens would generally occupy the corner of the site where there are already buildings. However, some of the gardens and the building on plot 2 are in areas that are currently open fields.
9. The three dwellings would occupy an increased footprint on the site. They would also be larger in terms of their scale, height, and massing than the existing development. They would result in a significant proliferation of urban residential character and built form, which includes the driveway. Although it would be in the corner where there are existing buildings it would nevertheless be a noticeably urbanising development compared to the existing rural built form and would extend into areas which are currently open. Domestic paraphernalia would also be likely to encroach into these parts of the site. Therefore, the proposed development would be harmful to the open, rural character and appearance of this countryside area.

Appeal A and B

10. The current boundary treatment broadly screens the existing development from public views on Broadwater Road. However, even with additional landscaping the proposed developments would be likely to be visible from the adjoining house and as such the harm identified above would be experienced.

11. I am not persuaded that attenuation fencing for rail noise would be required. It may also be possible to control details of fencing, landscaping, and some residential paraphernalia by condition. However, conditions to control aspects such as garden furniture, washing lines or car parking would be likely to be unreasonable or unenforceable. As such, these items would contribute to the urban, developed character of the proposed residential curtilages. Therefore, such conditions would not overcome the harm identified.
12. It is proposed that the land outside the site area would be a wildflower meadow. However, no mechanism has been provided to secure this in perpetuity. There is therefore no guarantee that it would be provided or retained. There would be some limited benefit associated with the removal of the mobile home. However, this minor benefit is not sufficient to outweigh the permanent harm to the character and appearance of the countryside through the introduction of either 2 or 3 dwellings.
13. Therefore, both Appeal A and Appeal B would have a harmful effect on the character and appearance of the area. Consequently, in this respect, they would be contrary to Policy CP24 of the Tonbridge and Malling Core Strategy and Policy SQ1 of the Managing Development and the Environment Development Plan Document. Together these policies require development to be high quality in terms of respecting the site, its surroundings, and the character of the area, and not being detrimental to the character of the countryside amongst other things. This is broadly in accordance with the National Planning Policy Framework (July 2021) (the Framework).

Other Matters

14. Planning permission has been granted for a single dwelling on this site with a large garden, retaining the southern barn. The details provided are sufficiently clear to understand that scheme. The dwelling permitted has no conditions to restrict its future use of permitted development rights and it is not my role to re-examine the extant permission. There is a reasonable likelihood that this dwelling will be constructed. It therefore follows that it could subsequently be extended through the exercise of permitted development rights.
15. However, both appeal A and B propose more than one dwelling on the land. Therefore, even if the scale of development were similar to the fallback position and the design was better, the intensification of residential use and associated multiplication of domestic features at this site would nevertheless cause notable harm. Therefore, for this reason, the proposed developments would be more harmful than that permitted and as such the existence of this fallback position does not justify the development proposed.
16. My attention is drawn to an appeal for 26 dwellings¹ in a different local authority area where paragraph 11d) of the Framework was engaged and the appeal was allowed. However, that proposal is of a different scale to the appeals before me for 2 and 3 dwellings and is not directly comparable with either of them. That decision therefore has no bearing on my assessment of the current proposals.

¹ APP/G2245/W/20/3260956

Planning Balance

17. The Council accepts that it cannot demonstrate a 5-year supply of deliverable housing sites and the appellant suggests that in March 2020 its housing land supply was 59% of its requirement. Therefore, paragraph 11d) of the Framework is engaged.
18. The proposed developments would deliver the benefits associated with the provision of 2 dwellings in respect of Appeal A and 3 dwellings for Appeal B and contribute to the Government's objective of significantly boosting the supply of homes. Although, given the extant permission on the site, the net increase would only be 1 or 2 dwellings. The houses would be within walking distance of shops and services, albeit that these routes may not be easily accessible to all, occupants would therefore be somewhat likely to support the local economy. The proposals would make use of a site which has been previously developed and is not in the Green Belt. There would therefore be limited social and economic benefits associated with providing additional homes. The proposed development would also provide temporary economic benefits during construction.
19. It may be possible to restrict the future use of permitted development rights by condition. However, this would only be necessary in order to mitigate any potential future harm. As such, it cannot be considered to be a benefit.
20. On the other hand, both schemes would have unacceptable environmental consequences due to the public and permanent harm to the intrinsic character and beauty of this countryside site. It would be contrary to development plan policies as set out above and the Framework in these respects.
21. Consequently, even taking into account the considerable shortfall of deliverable housing sites, the adverse impacts of either scheme would significantly and demonstrably outweigh the limited benefits of the proposed development. Therefore, the presumption in favour of sustainable development does not apply to either of the appeal schemes.

Conclusion

22. Neither of the proposals would accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeals should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeals should be dismissed.

H Miles

INSPECTOR