



Appeal Decision

Site visit made on 20 December 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/V2255/W/21/3271838

Land at Pond Farm, Pond Farm Road, Borden, Kent ME9 8LL

- 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 S Naish of Provectus Developments Limited against the decision of Swale Borough Council.
 - The application Ref 20/505427/OUT, dated 6 November 2020, was refused by notice dated 8 February 2021.
 - The development proposed is the erection of 6no. dwellings with associated parking provision, utilising existing highway access with pedestrian access, landscaping and other ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. The application was made in outline with approval being sought for access only. Matters relating to layout, appearance, scale and landscaping have been reserved. I have dealt with the appeal on this basis, treating the site layout and street elevations plans that have been provided as illustrative only.

Main Issues

4. The main issues in this case are: -
 - a. Whether the site is suitable for the proposed development, having regard to the spatial strategy of the development plan, the effect of the proposed development on the character and appearance of the area and access to services and facilities; and
 - b. The effect of the proposed development on the character or appearance of Borden (The Street) Conservation Area (the CA) and the setting of the nearby Listed Building, Yew Tree Cottage.

Reasons

Location, character and appearance, and travel

5. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states *"At locations in the countryside, outside the built-up area boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities"*.
6. Given that the site's location would be outside any established built-up area boundary the appeal site would not be an appropriate location for residential development. However, the Council cannot demonstrate a five-year supply of housing sites, and this reduces the weight that can be attributed to settlement boundaries. Nonetheless, Policy ST3 seeks to protect landscape setting, tranquillity and beauty of the countryside. This aim is consistent with the environmental objectives of the Framework to conserve and enhance the natural environment recognising the intrinsic character and beauty of the countryside.
7. Dwellings with domestic curtilages, landscaping, roadways and vehicle parking would create a development of urbanised appearance and this would substantially alter the character and appearance of this countryside location. This would harmfully diminish the landscape setting, tranquillity and beauty of the countryside.
8. The services and facilities within Borden village are limited to a public house, village hall, pre and primary schools. There is a bus stop near the church where a bus service between Borden and Sittingbourne can be accessed. The Transport Statement that supported the planning application maps the route between Borden and Sittingbourne. However, I saw from the timetable at the bus stop that the service is relatively infrequent. The train station at Sittingbourne is approximately 2.5km away. Whilst some facilities within the village would be within walking and cycling distance, the service offer is extremely limited and future occupiers would need to travel to Sittingbourne or beyond to access services, facilities, education and employment. Cycling to the train station or using the bus service would provide access to facilities further away. Nonetheless, carrying shopping or inclement weather would likely deter occupiers from using these modes of transport.
9. Consequently, given the distance to services and facilities I find that future occupiers would be highly reliant on private vehicle, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.
10. It is advised that other dwellings have been granted planning permission by the Council within Borden. However, I have not been provided the full details of those cases to determine what similarity, if any, those permissions would have to that of the case that is before me.

11. For these reasons, I conclude that the site would not be suitable for the proposed development and the proposal would have a harmful effect on the character and appearance of the area and would not provide reasonable access to services and facilities for future occupiers of the development. The proposal would, therefore, conflict with Policies ST1, ST3, CP3 and DM14 of the Local Plan. These policies seek, amongst other matters, development to provide new homes in accordance with the settlement hierarchy for the Borough to protect the tranquillity and beauty of the countryside and to achieve convenient routes for pedestrians and cyclists.

CA and Listed Buildings

12. I acknowledge that the dwellings would not be situated within the CA and that there are no listed buildings within the site. However, the Framework makes it clear that setting is part of the significance of a heritage asset.
13. The designated CA comprises that part of the village that encompasses older development that includes a number of listed buildings. The access to the site would fall within the CA, however, the proposed houses would be outside of the CA. Existing properties within the CA front onto the highways and are close knit in character and appearance, with the exception of the Grade I listed church and its spacious grounds. These are distinctive characteristics of the CA. The largely undeveloped nature of the site adjacent to the CA makes a contribution as to how the CA is experienced as a rural village. Taken collectively, the area is of heritage and architectural interest, and this gives the CA its significance.
14. Modern urbanising development would be seen in the foreground of the CA on the approach to the village along Pond Lane Road. This would affect views into the CA. A modern housing estate would contrast with the historic village character and residential expansion development at the western edge would diminish the rural and village character and appearance of the settlement. Furthermore, the development would affect views from the CA, notably the view from School Lane junction looking south. The proposal would interrupt views of the adjoining countryside and diminish the sense of the settlement's location within the rural landscape. The proposed development would have a harmful urbanising effect at this sensitive edge of settlement location and would be harmful in views both to and from the CA.
15. Yew Tree Cottage is Grade II listed. The listing description indicates that it was an early 18th century farmhouse. It is set away from the village and is surrounded by predominantly open land. The surrounding rural landscape forms a significant part of how this listed property is seen and experienced as a rural dwelling. I saw that this heritage asset nestles into the higher land relating to the appeal site. The historic context of Yew Tree Cottage is one of a former farmhouse set within a rural landscape and this gives this listed property its significance. The rural setting of this heritage property is still clearly discernible, and corresponding to this, its setting is of historic significance.
16. The creation of built development on the land between Yew Tree Cottage and Borden village would be detrimental to both the character and appearance of the setting of this listed building, as well as its special heritage interest as a former rural farmhouse. Therefore, the proposed development would be harmful to its significance. Yew Tree Cottage is clearly visible in views from the

wider landscape and both from the public highway (Pond Lane Road) and public footpaths that traverse the wider rural landscape. The harm arising to this designated heritage asset would be evident in public views.

17. The Heritage Statement that supported the planning application highlights that along the site frontage would be an area of open space and landscaping and that the proposal can reintroduce a hedgerow along Pond Farm Lane. The Statement comments that the area of landscaped open space along Pond Farm Lane would maintain the intervisibility between the Cottage and the CA, but I find this would only be in some views. However, I do not consider areas of open space and a hedge would mitigate the harm arising from six dwellings and the urbanising impact that this would have. Furthermore, I do not agree with the appellant's Heritage Statement that the proposed development would assimilate into its context.
18. The Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to the significance of a designated heritage asset from development within its setting will require clear and convincing justification. The Framework is clear that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
19. Given the size and scale of the proposal effecting the CA as a whole, I consider there would be less than substantial harm to the character or appearance of the CA and the proposal would neither preserve or enhance it. In addition, the proposed development would be harmful to the designated asset of the listed Yew Tree Cottage close by. I consider there would be less than substantial harm to this designated heritage asset, and I give this considerable importance and weight. For those reasons set out above, I do not agree with the opinion reached within the appellant's Heritage Statement that the development would represent a very low level of less than substantial harm.
20. In accordance with paragraph 202 of the Framework I must weigh the harm against the public benefit of the proposal. The development would contribute to the borough's housing supply by creating six dwellings at the site that could potentially be built out quickly. There would be some modest employment benefit during the construction phase of the development. The proposal could support the rural economy, although it is not clear what rural enterprises the development would support. A gain in biodiversity at the site would represent an ecological benefit. The proposal would contribute toward Council tax revenue and the new homes bonus. Whilst these are attributes of the scheme, the contribution and benefit to the public, in my view, would be extremely modest, and insufficient to outweigh the harm identified.
21. For these reasons, I conclude that the proposed development would be harmful to the character or appearance of the CA and the setting of the nearby Listed building, Yew Tree Cottage. The proposal would, therefore, conflict with Policies CP8, DM32 and DM33 of the Local Plan. These policies seek, amongst other matters, development to preserve or enhance all features that contribute positively to a CA's special character or appearance and to preserve the setting

of listed buildings and any features of special architectural or historic interest. The proposed development would also fail to accord with national policy.

Other Matters

22. The appellant contends that the extent of the Council's shortfall in housing land supply is much greater than the Council's identified 4.6 years and has provided various information to support this assertion. The Government's aim is to boost the supply of housing. Given there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied. Paragraph 11d)i indicates that the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 that corresponds to paragraph 11d)i lists designated heritage assets amongst those that are of particular importance. Even if the Council's housing land supply position is acute, the harm to designated heritage assets is of particular importance in this case and provides a clear reason for refusing the development proposed. As a result, the presumption in favour of sustainable development does not apply.
23. I have been referred to a recent recovered appeal decision at land southwest of Sittingbourne, said to be approximately 1km from Borden, in which a large residential development has been granted. A large development relatively close by would not overcome my above concerns in respect of this site or justify the proposed development.
24. The appellant has provided a copy of an appeal decision at Hatton Lane, Warrington but does not provide any substantive explanation as to why this appeal has been provided. In any event, that appeal relates to a development in a different part of the country where different development plan policies and considerations will apply.

Conclusion

25. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR