



Appeal Decision

Hearing held on 1 March 2022

Site visit made on 2 March 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Appeal Ref: APP/E2205/W/21/3273547

Land adjacent Millview Cottage, Mill Lane, Smarden, Ashford, Kent TN27 8NN.

- 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 R Jarvis of Jarvis Land Promotions Ltd against the decision of Ashford Borough Council.
 - The application Ref 20/01738/AS, dated 9 December 2020, was refused by notice dated 25 February 2021.
 - The development proposed is the erection of 3 detached dwellings together with all necessary infrastructure.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr R Jarvis of Jarvis Land Promotions Ltd against Ashford Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. I have had regard to the revised Framework in reaching my decision.
4. The appeal site has been subject to a previous dismissed appeal (Ref: W/4000301) for the erection of seven dwellings together with all necessary infrastructure. This proposal differs to that of the previously proposed scheme in that it proposes three dwellings. The proposal before me seeks to address the concerns and conclusions reached by the previous Planning Inspector and pre-application advice provided by the Council.

Main Issue

5. The effect of the proposed development upon the character and appearance of the area.

Reasons

6. The site is located at the north western edge of the settlement of Smarden. This pastoral land is enclosed by trees and hedgerow along Mill Lane. To the north west is Millview Cottage. It is set within the surrounding open landscape that comprises fields, trees and a recreation ground. To the south east are single storey properties within Glebe Close with two storey dwellings further south and east. North east of Glebe Close are three single storey dwellings that front onto Mill Lane. The rear boundaries of properties within Glebe Close and to the side of Mill Lane, along with the tree vegetation running along these boundaries, form a clear and distinctive boundary to the edge of the settlement.
7. Although the Council has cited other policies within its reason for refusal, I consider Policy HOU5 of the Ashford Local Plan (the Local Plan) to be the most relevant in determining this appeal. The site is beyond the built up confines of the settlement of Smarden. Policy HOU5 of the Local Plan sets out criteria for windfall housing development located outside the built confines of settlements, including that of Smarden. Amongst the criteria part f requires the development (and any associated infrastructure) to be of a high quality design and sets out requirements to meet this.
8. Part f i) requires the development to sit sympathetically within the wider landscape.
9. The area falls within the Beult Valley Farmlands Landscape Character Area but this covers a much wider area. The assessment of this landscape is, therefore, more generic in its content in respect of landscape character. I accept that the landscape is not a 'valued landscape' and does not host any important rural features that might be adversely affected. Furthermore, the site does not host any specific landscape or heritage designations. Notwithstanding this, the site hosts those undeveloped and open characteristics of the landscape beyond the village confines. It forms part of the rural landscape and makes a small but positive contribution to the wider countryside. Whilst the site would not be anything more than ordinary countryside, placing urban development on this land would diminish the rural character of this site and its contribution to the wider rural landscape.
10. Unlike the previous scheme the proposal would not create a continuous built frontage from Pluckley Road to Millview Cottage, however adding built development along Mill Lane with formalised highway access would undermine the transition between the built up area of Smarden and the countryside landscape beyond. I acknowledge that new boundary planting is proposed along Mill Lane. However, I saw that the boundaries along this rural lane are characterised by hedgerows with some trees interspersed. A substantial treed boundary along this part of Mill Lane would be out of keeping and would undermine the character of Mill Lane as a rural highway.
11. Consequently, for these reasons the proposed development would not be sympathetic within the wider landscape.

12. Part f ii) and iv) require respectively the development to preserve and enhance the setting of the nearest settlement and to be consistent with local character and built form, including scale, bulk and materials used.
13. At this part of the settlement the existing development is looser knit than that of the development toward the centre of Smarden, including that of its historic core. This reflects the historic growth of the settlement. There are clusters of low-density development, farmsteads and groups of houses beyond the settlement and around its periphery and other scattered development within the open countryside. The proposal would be a low-density development and host dwelling footprints and plot sizes reflecting those of the existing development that fronts Mill Lane, including that of Millview Cottage.
14. Whilst there are two storey dwellings in the locality, those developments that abut the site and that front onto Mill Lane are predominantly single storey. In contrast the proposed dwellings would be two storey. I accept that the appearance of the dwellings, including that of the proposed finishing materials, would reflect that of local vernacular. Nonetheless, three large two storey dwellings would not be consistent with the local character and built form at this part of the edge of Smarden settlement. Therefore, they would appear as an incongruous development at the edge of the settlement and would visually dominate the existing adjacent single storey development.
15. It is accepted by the parties that the visual impact of the development would be limited to localised views of the site from the surrounding area. Furthermore, I acknowledge that the development would be seen against the backdrop of development within the village and the treed skyline interspersed within it when approaching Smarden along Mill Lane. Nonetheless, given the scale of the development it would be overly prominent and appear out of place in its immediate setting.
16. The boundaries at this part of the settlement are well defined. Those open and undeveloped attributes of the site provide an important visual openness where the landscape transitions into countryside. By creating urbanising development comprising three dwellings with roadway and domestic gardens and extending the settlement, this would erode the edge of settlement countryside character and create development of a scale out of keeping with and unrelated to the settlement. This would neither preserve or enhance the setting of the settlement.
17. For these reasons, the proposed development would not preserve and enhance the setting of Smarden settlement and would not be consistent with local character and built form.
18. Part f iii) requires the development to include an appropriately sized and designed landscape buffer to the open countryside.
19. The proposal would incorporate a landscaped triangular area of land to the north west of the site, as well as augmented tree planting round the boundaries of the site. Considerable effort has been made to screening the proposed development and the triangular area of landscaping would provide a landscaped gap at the north western part of the site. However, even with the dwelling at plot 1 having a setback from Mill Lane, the development would extend the built-up settlement into the open countryside that would diminish the rural landscape by changing it to one of an urbanised form.

20. Whilst the landscaping would create a landscape buffer for the new development this would not obviate the erosion to the countryside character at the edge of the settlement arising from the proposed development. This would not preserve the transition from countryside to settlement and would not prevent the development appearing as an extension of built development adjoining the settlement edge and would not respect the transitional character of Mill Lane.
21. Part f v) requires the development not to adversely impact on the neighbouring uses and maintain a good standard of amenity for nearby residents. Part f vi) requires the development interests of the site and/or adjoining area to not have an adverse impact upon the integrity of international and national protected sites in line with Policy ENV1. The proposal would be acceptable in these respects.
22. The proposal would comply with the other criteria set out within Local Plan Policy HOU5. I accept that windfall sites by their nature would bring about some perceived change to the character and appearance of a site, such as, creating dwellings and roadways that would urbanise a site's characteristics. Despite representing a windfall site adjacent to the settlement of Smarden, I have found that the proposed development would conflict with the criteria of parts f i to iv of Policy HOU5. Consequently, the proposed development would be visually harmful to the character and appearance of the area.
23. I saw that the three dwellings would be visible from the surrounding landscape, that includes views from the recreation ground and Public Rights of Way, most notably during those months when the trees are not in leaf. Augmented landscaping and the landscape buffer would reduce the visibility of the development in these views. However, the proposed screening would not constitute exceptional justification for the development. Not only would it take a long time for screen planting to have any beneficial effect, but it is an argument that could be repeated all too often to the overall detriment of the character and appearance of the countryside and settlement boundary.
24. The harm arising from the development would be visible in public views from Mill Lane, both to motorists and pedestrians making use of this rural highway. I acknowledge that Millview Cottage would be seen in the foreground on the approach to the settlement and that the development would be visible much in the same way as the rooftops of the existing development at Glebe Close are visible on the approach to Smarden. However, this urban backdrop does not obviate the visual harm that would take place as a result of the proposed development.
25. I conclude that the proposed development would cause significant harm to the character and appearance of the area. As identified above, the proposal would conflict with Policy HOU5 of the Local Plan. Policies SP1, SP2, SP6, ENV3a and ENV5 also cited in the Council's reason for refusal seek, amongst other matters, the Council's housing target to be met through committed sites, site allocation and suitable windfall sites and to conserve and enhance the Borough's natural environment, including designated and undesignated landscapes. The proposal would not be a suitable windfall site given the harm arising to the character and appearance of the area. This brings the proposal into conflict with these policies.

Other Matters

26. I have been provided with a copy of the Council's committee report pertaining to two dwellings granted planning permission at Pluckley Road (18/01763/AS) beyond the settlement edge of Smarden. In that case the proposal was considered to constitute an appropriate infill site within a residential streetscape that would follow the pattern of residential development leaving Smarden village along Pluckley Road. The scheme before me proposes in-depth development and would not represent an infill development in the same form as that at Pluckley Road. I, therefore, consider the in-depth development of the proposal before me to be quite different and, therefore, can and should be considered on its own merits in relation to the context of this site. I, therefore, attribute little weight to the two dwellings granted planning permission at Pluckley Road.
27. My attention has been drawn to a planning permission of June 2020 for five dwellings at Charing Health Road. I have not been provided the full details of that development to enable me to consider what similarity, if any, that proposal would have to the scheme that is before me.
28. In terms of environmental benefits, the site as it exists is not conducive to ecology. The proposed landscaping, including buffer, waterbodies and native vegetation/tree planting, would provide improved habitats, biodiversity and wildlife benefits. Indeed, the Ecological Report by K B Ecology that supports the proposal lists those biodiversity enhancements relating to hedgehogs, birds, bats, owls and reptiles/amphibians that can be incorporated into the development. Therefore, there would be a net gain in biodiversity where the landscaping and buffer are proposed. However, there would be little net gain in relation to developed parts of the site, which includes the associated domestic gardens. This carries moderate weight in favour of the proposal.
29. Occupiers of the development would have easy access to the village centre where services, facilities and public transport can be accessed. The site currently hosts an informal footpath link that provides connectivity between Glebe Close and the recreation ground. Whilst not an adopted public right of way, signage at Glebe Close indicates permission of passage through the garage court. As discussed at the hearing, a suitably worded planning condition could be imposed that would improve connectivity within the site of this informal footpath link. Easy access to the village centre and improving pedestrian connectivity are benefits of the proposal that hold moderate weight.
30. Construction works would contribute to the economy during the development phase and future occupiers of the development would contribute to expenditure locally. These are benefits of the scheme and hold moderate weight.
31. The development would create three family sized dwellings and this would contribute to housing provision and choice within the Borough. This again is a benefit of the proposal to which I attribute moderate weight.
32. My attention has been drawn to an issue relating to nitrates attributed to new housing development that has been identified by Natural England to have had an impact upon the Stodmarsh Lakes Designated Sites, the River Stour Catchment Area. This could potentially impact the delivery of allocated housing sites. The Council's statement indicates that it is taking proactive steps to deliver a solution to the Stodmarsh issue by creating wetlands within the

Borough that could provide a nutrient mitigation solution. The Council advises that this nitrates issue has had a temporary impact on housing delivery. However, on the information available to me there is no clear evidence that would lead me to conclude that the plan-led approach to housing delivery would be significantly compromised or that the aims of Policy HOU5 of the Local Plan would be undermined.

Planning Balance

33. The Council cannot demonstrate a five-year supply of deliverable housing sites, although the supply of 4.54 years is not a substantial shortfall. Nonetheless, given there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d) of the Framework should be applied.
34. I have found that the proposal would be harmful to the character and appearance of the area. This brings the proposal into conflict with the development plan when read as a whole.
35. Set against the harm identified, there would be moderate environmental, community (social) and economic benefits associated with the proposal relating to biodiversity, accessibility, construction employment and spend within the local economy. In addition, three dwellings would make a contribution to housing provision and choice. Notwithstanding this, three dwellings would make little difference to the overall supply of housing and the support three extra households would provide to the local economy would also be minimal. Consequently, the harm that I have identified to the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

36. The proposal would conflict with the development plan as a whole. There are no other considerations, including the provision of the Framework or what I heard at the hearing, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Nicola Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ian Bull, Ian Bull Consultancy Limited
Katherine Barnes, 39 Essex Chambers
Alastair Macquire, ES Landscape Planning
Jason Lewis, Stantec
Russell Jarvis, applicant and appellant
Charlotte Wilkinson, applicant

FOR THE LOCAL PLANNING AUTHORITY:

Karen Fossett, Ashford Borough Council
Lewis Berry, Ashford Borough Council (Teams producer)
Lynn Freeman, Ashford Borough Council

PLAN

Provided at the hearing - ES Landscape Planning Drawing Ref: 9467L.SP001 Layout Comparisons