
Appeal Decision

Site visit made on 29 June 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/L2250/W/21/3280439

Shepway Lympne Hill, Lympne CT21 4NX

- 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 Martin Bryer against the decision of Folkestone and Hythe District Council.
 - The application Ref 20/1660/FH, dated 28 October 2020, was refused by notice dated 11 February 2021.
 - The development proposed is described as a 4 bedroom (plus ground floor study/5th bedroom) two storey part chalet style two storey house of 233m² with basement of 35m².
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would:
 - Provide a suitable location for housing, having regard to the accessibility of services and facilities, and
 - Conserve, protect or enhance the natural beauty of the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB), the Kent Downs Special Landscape Area (SLA) and the countryside.

Reasons

Location

3. The proposal would represent a new dwelling in the countryside. The site is situated outside of any recognised settlement limits. The development plan directs new development to settlements and development in the countryside will only be allowed in exceptional circumstances.
4. While there is some dispute about the distance to the nearest village of Lympne, during my site visit I walked along the footpaths crossing fields and along both Lympne Hill and Aldington Road to get to the village of Lympne. It is a considerable distance and I noted that there is no pavement, limited refuge from vehicles and no street lighting along both Lympne Hill and significant sections of Aldington Road. Additionally, the gradient and unmade nature of the footpaths through the fields, also with no lighting, between the appeal site and Lympne, would discourage future occupiers from using either the footpaths or Lympne Hill.

5. The appellant identifies public bus stops and a railway station, however, based on the locations provided as part of the appellant's evidence, the nearest bus stops are some distance from the appeal site and would require walking along routes without streetlighting, refuge from vehicles or formal footpaths. The railway station would also require pedestrians to follow this route and is further away. This would not represent a convenient alternative to the car.
6. Although households typically rely, to varying degrees, on the private motor cars for access to distant amenities like hospitals and major shopping centres, in this case I find future occupants of the development would be largely reliant on the private motor car to access local services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be in an unsuitable location for new housing.
7. While secondary school buses may stop nearer the house, these would only provide a term time service to a limited section of the community. I am not persuaded that this would alleviate all future occupier's reliance on the private motor car to access services and facilities.
8. I also acknowledge the appellant's suggestion that future occupiers could cycle to Lympe. However, as I observed on site, the gradient and nature of the road between the appeal site and Lympe is quite steep in places which would discourage future occupiers from cycling to the village.
9. The appellant considers the site to be within a 'very distinct boundary of an established domestic settlement, distinct and separate from the character of the surrounding farm land'. While visually there is a loose scattering of dwellings along Lympe Hill, for the purposes of the spatial strategy the site falls outside the settlement.
10. The proposed development would consequently constitute a new dwelling in the countryside and there are no considerations before me worthy of setting aside the spatial strategy in these circumstances. The proposals would therefore be contrary to the relevant provisions of Policies DSD, SS1, SS3 and CSD3 of the Folkestone and Hythe District Council Shepway Core Strategy (the Core Strategy) and the National Planning Policy Framework (the Framework) which require proposals to respect the key characteristics and qualities of the countryside while directing new housing to existing settlements.

AONB and SLA

11. The appeal site is located within the front garden area of an existing property known as 'Shepway'. It is currently laid to grass, with vegetation to the boundaries and slightly elevated from the road. The main dwelling Shepway sits in generous grounds and is considerably set back from the highway.
12. It is proposed to erect a detached 5 bedroom two-storey dwelling house with associated driveway to the front garden area of Shepway. The existing appeal site and wider area is generally open in its setting with an undeveloped character and scenic beauty. This broader undeveloped and open character is a positive feature which compliments the area.
13. While a limited number of existing dwellings are scattered within the surrounding area, to varying degrees of visibility, the introduction of a further dwelling would cause a visual intrusion and urbanisation of this broadly open and undeveloped area. Although vegetation does exist to the site boundaries,

glimpsed views through gaps in the vegetation are still possible from the adjoining highway and other areas in the landscape. During autumn and winter such screening would also be reduced due to leaf fall and even if this was not the case, there is no long-term mechanism to protect trees from dying or being felled.

14. Paragraph 176 of the Framework attaches great weight to conserving and enhancing landscape and scenic beauty in an AONB, assigning them the highest status of protection. The appeal proposal consequently fails to contribute to or re-enforce the landscape character by introducing development which encroaches into the open and undeveloped character of the area eroding the landscape and scenic beauty.
15. Consequently, the proposed development would not conserve protect or enhance the natural beauty of the landscape and scenic beauty of the AONB, SLA and the countryside. The proposals would therefore be contrary to the relevant provisions of Policies DSD and CSD4 of the Core Strategy and the Framework all of which require proposals to respect the key characteristics and special qualities of the area.

Other Matters

16. I note the appellants desire to have a dwelling near a place of work which has also created local jobs. However, I have not been provided with convincing evidence that there would be an essential link between the new dwelling and the survival of the business.
17. I accept it is also desirable to have family living near each other, however, I have not been provided with compelling evidence that this is essential to outweigh the harm identified in relation to the main issues.
18. The appellant claims the dwelling would be affordable, however, I have not been provided with evidence as to how the proposed development would meet affordability criteria or how this would be secured in perpetuity.
19. I also note the absence of objections in response to the planning application's consultation and publicity. However, this does not absolve me from making an assessment as to the main issues of the appeal.
20. Reference is made to other decisions in the local area which the Council has approved. However, I have not been provided with full details of these decisions. It is therefore difficult for me to make comparisons or understand the Council's rationale in giving consent elsewhere. Nevertheless, in coming to my conclusion, I have considered this appeal on its individual merits including its location, design and context.
21. The appeal site may already benefit from highway access, electricity, water, sewerage treatment works, surface water drainage and internet. However, these are neutral matters which neither weigh for or against the development proposal.
22. The appellant suggests the development would assist with the conservation, protection and enhancement of the AONB. However, I have not been provided with persuasive details of how this would realistically be achieved or retained.

23. I have reviewed Policy DSD of the Core Strategy and I find it to be broadly consistent with National Policy. Even if I set it aside as the appellant suggests, the proposal still fails to accord with other Policies in the Development Plan and the Framework as I have set out above.
24. I have also had regard to Policies ND1, ND2, ND3, ND4, ND7, ND8, ND9 and ND10 of the Places & Policies Local Plan 2020. These policies identify sites for residential development to allocate enough land for future development to meet the requirements set out in the Core Strategy. These allocations are, amongst other things, informed by a comprehensive evidence base. The appeal site does not appear to be identified for residential development in planning policy and I have found harm in relation to the main issues as set out above. For these reasons, I do not consider that allocated sites elsewhere are directly comparable to the appeal site.
25. I am also aware of the appellant's frustrations with bringing the planning application to decision with the Council. While I have considered this, my decision is based on the planning merits of the appeal before me.

Conclusion and Planning Balance

26. The development offers potential benefits in terms of increasing housing supply through a windfall site in previously developed land. It would deliver some economic benefits for local services and facilities once occupied, together with short term and temporary economic benefits in terms of necessary construction works associated with the development. It would contribute to the vitality of a rural community, would incorporate environmental sustainability features and internal layouts to suit wheelchair access. The proposed development also has the potential to meet self-build criteria. These elements in combination would carry moderate weight in favour of the proposal.
27. Conversely, the development would not be suitably located and would not conserve protect or enhance the natural beauty of the landscape and scenic beauty of the area. This conflict with the development plan and the Framework, when taken as a whole, and the associated harm identified, however, carries great weight. Consequently, the benefits in this case do not outweigh the harm.
28. Article 1 of the First Protocol of the European Convention on Human Rights (ECHR) concerns enjoyment and deprivation of possessions. Article 8 states that everyone has a right to respect for his home and private life, his home and correspondence. These are qualified rights, whereby interference may be justified in the public interest. Having regard to the legitimate and well-established planning policy aims to direct housing to sustainable locations and to protect the character of rural areas, including AONBs, dismissing this appeal would be proportionate and necessary. It would not, therefore, result in a violation of the human rights of the appellant or the appellant's family.
29. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

N Praine

INSPECTOR