



Appeal Decision

Site visit made on 24 August 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2022

Appeal Ref: APP/E2205/W/21/3281266

Pilgrims, Pilgrims Lane, Chilham, CT4 8AA

- 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 Gary Petts against the decision of Ashford Borough Council.
 - The application Ref 21/00745/AS, dated 25 April 2021, was refused by notice dated 23 June 2021.
 - The development proposed is the erection of detached 4-5 bedroom live-work dwelling and detached double-garage (with all matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A plan accompanying the application shows the location of a new chalet bungalow and double garage but this is purely illustrative.

Main Issue

3. Whether the proposed development would be in a suitable location having regard to relevant development plan policies.

Reasons

4. The appeal site lies between the properties at Pilgrims and Windermere outside the built confines of Chilham. Pilgrims Lane runs parallel to the A28. There is a more or less continuous line of development on the southern side but buildings are much more sporadic on the northern side.
 5. Policy SP1 of the Ashford Local Plan 2030 sets the strategic objectives for the Borough. One of the core principles is to focus development at accessible and sustainable locations. In terms of housing delivery, Policy SP2 provides that windfall housing development will be permitted where it is consistent with the spatial strategy and consistent with other policies in the Plan.
 6. In this respect, Policy HOU5 sets out the circumstances when residential windfall development in the countryside adjoining or close to a number of settlements, including Chilham, will be permitted. These include that the site should be within easy walking distance of basic day to day services in the nearest settlement and that it should be located where it is possible to maximise the use of public transport, cycling and walking to access services.
 7. Other provisions in the policy apply to residential development which is not adjoining or close to a settlement but "elsewhere" in the countryside.
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However, the Council does not argue that this is the case and therefore this part of Policy HOU5 is not relevant.

8. In order to be sustainable, the supporting text indicates that services such as a grocery shop, public house, play/community facilities and a primary school should be within 800m. Whilst this is not a policy provision in its own right it nonetheless provides some guidance when applying criterion b). The Chilham shop is around 800m from the appeal site. However, walking to it would not be an especially attractive proposition as Pilgrims Lane is narrow and not well lit with no pavement. Furthermore, the environment along the A28 is dominated by traffic and part of the return journey would be uphill. Most significantly, crossing the very busy A28 would be a major deterrent to many. Therefore, it is unrealistic to assume that the shop would be accessed on foot other than on a very occasional basis.
9. Other day to day facilities at Chilham are quite limited and found in the centre of the village which is about 1.5km away. Therefore the range of services close to the site are few and the likelihood of walking to the shop would be low.
10. The site is about 1km away from Chilham railway station which provides frequent train services to Canterbury and Ashford and high-speed services to London. However, the A28 forms a significant barrier to accessing it given that there is no formal pedestrian crossing. Indeed, this would be a practical impediment to any trips from the appeal site on foot or by bicycle. The site is less than 500m away from the nearest bus stops. A direct service runs between Canterbury and Ashford although there is nothing to indicate that its frequency would encourage regular usage. Access to sustainable methods of transport would therefore be limited by these practical considerations.
11. As the proposed development would not be within easy walking distance of basic day to day services or located where it is possible to maximise the use of public transport, it would not comply with criteria b) or d) of Policy HOU5.
12. Given the development along Pilgrims Lane, the proposed live-work dwelling would not be an isolated home in the countryside. Therefore, paragraph 80 of the National Planning Policy Framework does not apply. However, just because the proposal is unobjectionable on this ground does not mean that new development in the countryside should be accepted.
13. In conclusion, the proposed development would not be in a suitable location having regard to relevant development plan policies. As well as conflict with Policy HOU5 it would also be contrary to the principles set out in Policies SP1 and SP2 and so would undermine the spatial strategy for the Borough.

Other Material Considerations

14. The Council advises that it can currently demonstrate a 4.51 year supply of deliverable housing sites. As a consequence paragraph 11 d) of the Framework is engaged. Furthermore, the appellant refers to the delivery of housing in Ashford being impeded because of increased levels of nitrates and phosphates adversely affecting the integrity of the habitats at Stodmarsh Lakes. Indeed, the supply of housing has fallen from 4.8 years as of July 2020. So whilst the supply of sites is only 10% below what it should be, there is no evidence that the downward trend is being addressed. This increases the benefits of additional provision.

15. The appellant has produced a nutrient impact assessment which evaluates potential nutrient levels arising from the proposed single dwelling. It is intended to use 'offsetting' as a means of mitigation by taking other land in the same ownership as the appeal site out of agricultural production. As a result, the net production of nitrogen would be reduced but a small amount of phosphorous would be produced annually.
16. The latter figure is based on estimates and there is no certainty that this would change once Southern Water data for the wastewater treatment works at Chilham becomes available. In any event, there is no mechanism in place to ensure that the land referred to remains out of agricultural production and so mitigates the impact in the long term. As a result, any net reduction in nitrogen can only be given limited weight.
17. There is no evidence that a single additional unit of accommodation in Pilgrims Lane would enhance or maintain the vitality of the rural community at Chilham.
18. Concerns about the design and siting of the proposed dwelling could be addressed at the reserved matters stage.

Final Balance

19. The proposal would dilute the overall strategy for the pattern and scale of places in the Borough, contrary to the expectations of the Framework. The planning system should be genuinely plan-led. The conflict with relevant development plan policies is a matter that weighs significantly against it.
20. On the other hand, the housing supply position is below Government expectations and currently affected by an issue that is limiting delivery. A single dwelling would have a modest overall impact although its significance is increased by the situation in the Borough. The Framework also recognises the important contribution that small sites can make in meeting the housing requirement of an area. However, the appeal site is not well located in relation to the services at Chilham and is some distance from the main village core. It would not promote sustainable transport in line with the Framework.
21. In the final analysis, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development, as set out at paragraph 11, does not apply.
22. As the appeal is to be dismissed, there is no need to undertake an appropriate assessment or for further consideration to be given to the provisions of the Conservation of Habitats and Species Regulations.

Conclusion

23. The proposed development would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore the appeal should fail.

David Smith

INSPECTOR