



Appeal Decision

Site visit made on 23 August 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/E2205/W/21/3287798

Holmwood, Cherry Orchard Lane, Bonnington TN25 7AZ

- 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 Miss Elizabeth Leonard against the decision of Ashford Borough Council.
 - The application Ref 21/00972/AS, dated 26 May 2021, was refused by notice dated 6 August 2021.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be in an appropriate location for new housing with regard to the local development strategy and accessibility to services and facilities,
 - the effect of the proposed development on the character and appearance of the surrounding area, and
 - the effect of the proposed development on biodiversity.

Reasons

Location

3. The appeal site is an undeveloped field bordered by trees and hedging and adjacent to the existing dwelling at Holmwood. It is surrounded by a number of detached residential dwellings. These are set out in a sporadic form along Cherry Orchard Lane, many of which are located on generously sized plots set within the surrounding fields. The nearest settlement is Aldington, which both the Council and appellant agree is approximately 1400 metres from the appeal site.
4. Policy HOU5 of the Ashford Local Plan 2030 (February 2019) (the LP) states that proposals for residential developments adjoining or close to the existing built up confines of the following settlements will be acceptable, subject to six criterion. The list of settlements within this policy include Aldington. However, whilst 'close to' is not specifically defined within the policy, the distance between the appeal site and the settlement of Aldington could not be considered close under the usual definition, due to the distance between the

two and the physical separation by large undeveloped fields and some limited development. Therefore, the proposal would not accord with this policy, which seeks to ensure good accessibility to local services and facilities.

5. This is not an isolated site due to its proximity to other residential dwellings. Therefore, paragraph 80 of the National Planning Policy Framework (the Framework) is not applicable. However, paragraph 79 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include the consideration of providing support for local services even in a village nearby. There are no local services or facilities in Bonnington or within close proximity to the appeal site. However, the settlement of Aldington has a number of facilities, such as a shop and a primary school.
6. There is a bus stop located in relatively close proximity to the appeal site with buses running to the nearby town of Ashford. However, these are infrequent and could not be reliably used by the future occupiers of the dwelling to access the services and facilities they require on a day to day basis. It is possible to walk or cycle into the settlement of Aldington. However, this is via an unlit and unpaved public right of way through a field, which would discourage its use during the hours of darkness and in times of inclement weather. The alternative route via the road is much longer in terms of distance and does not have a footpath for some of the journey, thereby making it an unlikely route for pedestrians to use. Therefore, due to the lack of safe access, it is not considered that this would be a realistic option for most people on a regular basis. As such, the future occupiers of the proposed dwelling would be reliant on the use of a car to access the necessary services and facilities.
7. The appellant contends that there is a decline in the use of private vehicles with a transition to sustainable electric vehicles, and they have provided various evidence to demonstrate as such. However, whilst conditions could secure the necessary charging points to encourage the use of electric vehicles, this is not a guarantee that the future occupiers will use such a vehicle. Furthermore, whilst they may be a general increase in homeworking and internet shopping amongst the population, this does not entirely negate the requirement for a private vehicle, as it only addresses certain needs and other services cannot be accessed in this way. Whilst the appellant indicates that the future occupiers are locally based with a limited requirement to travel, the proposed development is for a market dwelling and therefore this cannot be secured.
8. Whilst paragraph 105 of the Framework states that opportunities to maximise sustainable transport solution will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development as a single dwelling, the benefits to services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 79 of the Framework.
9. In conclusion, although the appeal site is not isolated, the necessary services and facilities which would be required by the future occupiers would not be readily accessible and a single dwelling would not provide significant support

for local services nearby. Whilst there are some sustainable transport options, such as a public bus, these options are limited and therefore the future occupiers would still largely be reliant on the use of a car to serve their day to day needs on a regular basis. Consequently, the proposed dwelling would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing.

10. Therefore, the proposed development would conflict with Policies SP1 and HOU5 of the LP. This policy seeks to ensure residential windfall development in the Countryside is only located within, adjoining or close to existing settlements and focuses development at sustainable locations and encourages as much non-car base travel as possible. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

Character and Appearance

11. The appeal site is currently an open and undeveloped piece of land between two dwellings along Cherry Orchard Lane with mature boundary hedgerows. Its verdant appearance is in keeping with the rural nature of the area and has a positive impact on the character and appearance of the surrounding area.
12. There are a number of residential dwellings along the road, set out informally as sporadic development separated by rural fields or large gardens. These neighbouring dwellings are of a similar scale and material finish to the dwelling proposed. However, the proposed dwelling would be set back further into the site than the immediate neighbouring buildings. Although this is intended to lessen its impact on the streetscene, due to its scale and the open nature of the site, the proposed dwelling would be a highly prominent addition to the site and the surrounding area. Its central positioning within the site would be incongruous and at odds with the existing building line of the properties adjacent, which are located closer to the road, and would therefore erode the consistency within the streetscene. Although the site is generous in size, the location of the proposed dwelling would also be to the detriment of the existing open nature of the site. This is due to its prominence and the occupation of a large proportion of the plot, which would harm its current contribution to the character and appearance of the area.
13. The presence of a centrally located residential dwelling on the appeal site, and the domestic paraphernalia this entails, including the large driveway, would alter the character and result in a domestication of this currently undeveloped site. Whilst this would be in keeping with the surrounding plots occupied by residential properties, it would add to the overall domestication of the area which is still predominantly open countryside, to the detriment of the character and appearance of the surrounding landscape. Removing the permitted development rights, would not prevent the addition of domestic paraphernalia, such as cars and garden furniture, to the appeal site or prevent the loss of open countryside.
14. The proposed development would result in the loss of some of the hedgerow to the front of the appeal site which is required for access. However, there are a number of openings associated with other dwellings in the surrounding area and therefore it would not be untypical for there to be a break in the hedge. Furthermore, the majority of this hedgerow would remain and be enhanced by additional planting, as indicated on the submitted site plan and which could be

secured by condition. Although this additional planting would take time to mature, the existing hedge is of sufficient quality and therefore it would not have an immediate impact on the overall appearance of the rural lane. Therefore, whilst its loss would be highly visible within the streetscene, this specific aspect of the proposal would not significantly diminish the character of the countryside.

15. Limited information has been submitted in relation to the existing trees on the appeal site. However, the submitted plans indicate that all existing trees will be retained and the appellant has confirmed that this is their intention. The proposed driveway would be located in close proximity to the four existing poplar trees in the centre of the appeal site, which add to its current verdant appearance. Although the construction of this could result in damage to their roots, a no-dig method could be used, which would be secured by condition. Alternatively, a condition could be implemented, requiring an arboricultural method statement prior to the commencement of the driveway, to ensure the protection of these existing trees. It is noted that development pressures could result in the removal of the trees at a later stage, which would have a detrimental impact on the character and appearance of the area. However, their retention could be sufficiently secured by condition.
16. Nevertheless, for the reasons given above, I conclude that the proposed development would significantly harm the character and appearance of the surrounding area and would conflict with Policies SP1, SP6 and ENV5 of the LP. These policies collectively seek to ensure new development is of the highest quality design and demonstrates a careful consideration of the character, distinctiveness and sense of place, protecting rural lanes which have a landscape.

Biodiversity

17. As part of the application, a preliminary ecological appraisal has been submitted by the appellant. This states that there is the potential for reptiles and great crested newts to occur in both the pond and terrestrial habitats on the site. Therefore, the appraisal suggests that surveys are recommended to establish the presence or absence of this species and a population assessment to inform an appropriate mitigation strategy.
18. The appellant has stated that a licensing scheme could be used to mitigate the impact upon these identified species. The decision about whether a license can be granted is the responsibility of Natural England and is separate from the decision to authorise planning permission. However, in their list of suggested conditions, the Council have stipulated that this license could be secured by condition prior to the commencement of development or the appellant could provide details of reasonable avoidance measures for reptiles and great crested newts to be approved by the Council.
19. Natural England can only issue a license subject to three tests. These include whether the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest, where there is no satisfactory alternative and where the action will not be detrimental to maintaining the population of species concerned at a favourable conservation status in its natural range. I am not persuaded that the proposed development would meet these tests and no evidence has been provided to demonstrate as such. Furthermore, in accordance with the government circular 06/2005, the

recommended surveys to establish the presence or absence of reptiles and great crested newts on the site, should be carried out before planning permission is granted, with surveys only being secured by condition in exceptional circumstances. There are no exceptional circumstances in this instance.

20. Therefore, as it was found that legally protected species may be located on the appeal site, with inadequate survey information to suggest otherwise and no suitable mitigation provided, the proposed development would have a significantly harmful effect on biodiversity. The proposed development would therefore conflict with Policies SP1, ENV1 and HOU5 of the LP. These policies collectively seek to ensure that new development conserves the Borough's natural environment and biodiversity, safeguarding features of nature conservation and include measures to retain, conserve and enhance habitats.

Other Matters

21. The developments for new dwellings at Eleven Acre Shaw, Silver Birches, Land east of Chestnuts and The Coach House, all within the same borough as the appeal site, were described as having good sustainable transport links to the nearby services and facilities. This was either a regular bus service in close proximity to the site or easy access on foot or by cycle to a nearby village. As I have found this is not the case for the appeal site, these examples are materially different to the appeal scheme and do not set a precedent for the appeal proposal. The development at Kypp Cottage, although was found acceptable on balance due to the lack of housing supply, was assessed under policies which have now been superseded, and the development at Peniel was to replace an existing dwelling. Therefore, these would have also been considered in a different manner to the appeal proposal.
22. The appeal decisions, granting permission for developments at the Land next to Lilloett, the Alderton housing development and Culpepper Close, are all located outside of the appeal borough. For the development at the Land next to Lilloett, the Inspector found no conflict with the development plan policies. For the Alderton housing development the decision notes that there is a frequent bus service nearby. Finally, for the development at Culpepper Close, the provision of 10 new dwellings was given significant weight against the Council's shortfall in housing supply. These examples are therefore materially different to and do not set a precedent for the development proposed.
23. The appellant has also highlighted the development at Aldington Meadow consisting of 70 dwellings approximately 350 metres from the appeal site. However, this site is located close to both the local bus route and the settlement of Aldington with more direct walking routes to services and facilities. The benefits of providing 70 new dwellings to the housing land supply are also likely to have been significant. Therefore, I do not consider that this scheme is directly comparable to the appeal proposal before me.
24. It is also noted that the neighbouring site, Little Park, has recently been granted planning approval for a four bedroom detached dwelling. However, this neighbouring development is located on previously developed land which is much closer to the host buildings on the site and therefore it would have a lesser impact on the character and appearance of the surrounding area than the appeal proposal, which is significantly separated from the dwelling at Holmwood.

25. In determining the appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. Third party representations have been submitted which set out the personal circumstances of the occupier of the host dwelling and the future occupier of the proposed dwelling and the contended justification for the proposed development. I am satisfied that the consideration of the needs of these occupiers would fall within the auspices of the PSED.
26. This attracts moderate weight in favour of the scheme. However, given that the planning system operates in the wider public interest which has legitimate aims of upholding the purposes of planning policies, in this instance preventing housing development in inaccessible locations and protecting the character and appearance of the area and biodiversity. The harm I have identified in respect of the main issues outweighs these personal matters and the considerations in favour of the scheme. Dismissing the appeal is therefore proportionate, necessary and justifiable.
27. The appellant has stated that the proposed development would not harm the amenities of the occupiers of neighbouring properties or highway safety. However, these are neutral factors which would not outweigh my previous findings.

Planning Balance

28. The Council cannot demonstrate a five year supply of deliverable housing sites, with only a 4.8 year supply recorded in July 2020. Although not a significant shortfall, because of the provisions of footnote 8, paragraph 11(d)(ii) of the Framework should be applied.
29. In the context of the development, I have found that the proposed development would be contrary to policies SP1, SP6, ENV1 and HOU5 of the LP, resulting in significant harm to the character and appearance of the area and biodiversity, and the likelihood of a dependency on the use of a car for access to services. The countryside is not protected for its own sake by the Framework but its intrinsic character and beauty is recognised. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general aims of the Local Plan in terms of the location of housing. The Framework also expects development to prioritise pedestrian and cycle movements. Therefore, as I have found these policies to be generally consistent with the relevant aims of the Framework, I attach substantial weight to the conflict with them.
30. The development would add to the overall housing land supply and makes a small contribution to the Government's objective of significantly boosting the supply of homes, as detailed in paragraph 60 of the Framework. Economic advantages would also arise from the construction and occupation of a new dwelling, along with the environmental benefits from the energy efficiency of the property, which could be secured by condition, and the support of local schools through the provision of a family dwelling. However, given the scale of the scheme, any such benefits would be small.

31. The appellant suggest that paragraph 69 of the Framework requires great weight to be given to the proposed development in the balance. However, although this does support the development of windfall sites, great weight is only given to the benefits of using suitable sites within existing settlements for homes. As it has been found that the appeal site is not a suitable site for housing, nor is it within an existing settlement, this paragraph would not be relevant.
32. Therefore, even though there is a shortfall in the housing land supply, given the harm that I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of one dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development

Conclusion

33. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework which outweigh this finding. Therefore, the appeal should be dismissed

E Grierson

INSPECTOR