



Appeal Decision

Site visit made on 17 January 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/V2255/W/21/3286759

164 Bull Lane, Newington, Sittingbourne, Kent ME9 7NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Ms K Rowe against the decision of Swale Borough Council.
 - The application Ref 21/501791/PIP, dated 31 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is erection of a detached two storey sustainable self-build or custom building dwelling with new access onto Bull Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development used in the banner heading above is taken from the decision notice, as this more concisely describes the development proposed.
3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. In line with the PPG, the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Accessibility to Services and Facilities

6. The Local Plan (Bearing Fruits 2031: The Swale Borough Local Plan 2017) (the LP) contains a settlement strategy in order to guide the location of

development and services in the Borough, with a focus on the use of previously developed land and within defined built up area boundaries, and on sites allocated by the LP, in order to facilitate sustainable transport and protect the character of the countryside.

7. The appeal site lies outside the built up area boundary of Newington, which lies to the north. Newington is defined by the LP as a Rural Local Service Centre and accommodates a number of services and facilities including a church, school, shops and health care facilities, as well as public transport links to other settlements. As the site lies outside the boundaries of any settlement, it is defined by the LP as the open countryside. Given the presence of other buildings near the appeal site, I do not consider the site to be isolated for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework).
8. This section of Bull Lane has a national speed limit, which reduces to 20mph further to the north when approaching Newington. Together with the fairly straight nature of the road leading north, this allows vehicles to travel at reasonably high speeds on this section of road. This part of Bull Lane does not benefit from footways, which would result in the need for pedestrians to walk in the road. In combination with the absence of street lighting, the road would be unwelcoming to pedestrians and not conducive to a safe or attractive route for pedestrians or cyclists.
9. For these reasons, the appeal site is poor in terms of its accessibility to services and facilities and future occupants are highly likely to rely on the private car to carry out their day to day needs, promoting an inherently unsustainable nature of development. There is a strong likelihood that the proposed development would be disconnected from the local rural communities and a likelihood of future occupants travelling further afield to accommodate their needs. From the evidence, the proposal would not maintain or enhance the vitality of rural communities or support local services, in conflict with paragraph 79 of the Framework.
10. I therefore conclude that the appeal site is not a suitable location for housing and would conflict with the settlement strategy set out in Policy ST3 of the LP, and with policies ST1, ST2, CP2, CP3 and DM14 which, among other things, require development to have regard to that strategy and to achieve convenient routes and facilities for pedestrians and cyclists.

Character and Appearance

11. The proposal would result in the creep of residential development and its associated paraphernalia into the countryside and beyond the established settlement boundary. Despite this, the site lies among other houses set within generous plots. Therefore, the extent of any visual intrusion into the countryside here would depend on the specific characteristics of the proposed development. My considerations must be limited to the matter of the principle of the development and matters relating to the appearance of the development, its scale and siting, would fall to be considered under a technical details consent if the proposal were otherwise acceptable. For this reason, I do not find harm arising from the character, appearance or intrinsic amenity value of the countryside.

Other Matters

12. The appeal site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA), which is a European designated site, protected under the Conservation of Habitats and Species Regulations 2017. The appellant has provided a financial contribution to the Council to mitigate the impacts of the development on the SPA. However, as I am dismissing the appeal on other grounds, in line with paragraph 63(1) of the Regulations, it is not necessary to consider the development within the framework of an Appropriate Assessment. As such, this is not a matter which I need to consider further.
13. I do not have evidence to suggest that the site is within the Isle of Sheppey for the benefit of the LP, and as such I do not find conflict with Policy ST6. As the proposal does not relate to the provision of affordable housing there is no conflict with Policy DM9 of the LP.
14. The appellant refers to a planning permission granted for housing in the countryside within the administrative area of Canterbury City Council¹. However, I do not have detailed evidence relating to the location of that development or how it is comparable to the appeal scheme. Similarly, planning permissions have been reported relating to the change of use of Gwelo Farm Barn to become a community facility. While the characteristics surrounding the access to that site are similar to the appeal scheme, in the absence of details of its circumstances or the reasons it was considered acceptable, it does not provide justification for the appeal scheme.

Planning Balance

15. For the reasons above, the site has been found to be unsuitable for new residential development by reason of its poor accessibility to services and facilities, and would cause harm to the settlement strategy. This harm would be significant and long lasting, and would cause conflict with the Framework. I ascribe significant weight to this harm.
16. The proposal could contribute a new home to the Borough's housing stock and this weighs in favour of the proposal, particularly given the shortfall in the Council's housing land supply. However, given the scale of the proposal, and as it relates to permission in principle rather than the grant of planning permission, this benefit attracts moderate weight.
17. Despite the description of development referring to self build or custom build housing, and the identified shortfall in delivery of plots in this area, there is no mechanism before me to ensure that the development would be provided for this purpose. As such, I do not afford this weight in favour of the proposed development.
18. The proposal has the ability to incorporate high quality design and sustainability credentials in terms of energy efficiency and carbon emissions through incorporating measures including renewable energy sources. It could also incorporate a scheme of landscaping and biodiversity enhancements. However, details of these attributes are not before me at this stage and would fall to be considered under a technical details consent. As such I am unable to ascribe these benefits more than little weight.

¹ Canterbury City Council reference CA/19/01977

19. While the appellant would be willing to provide an additional housing plot between 164 Bull Lane and Gwelo Farm Barn, the benefit of an additional unit would not outweigh the harm identified given the poor suitability of the site for housing. A number of dilapidated outbuildings have previously been removed from the site, however, their removal does not form part of the proposal and their earlier removal does not weigh in favour of the proposed development.
20. The Council accept that it does not have a 5 year land supply for housing, and has a shortfall of 0.4years. As such the provisions of paragraph 11d) of the Framework apply. I am mindful that even if the appeal were allowed, this would not amount to a grant of planning permission, which would rely on the approval of technical details consent. In any event, for the reasons above, the adverse impacts arising from the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR