
Appeal Decision

Site visit made on 28 February 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/E2205/W/21/3289563

Land to the northeast of Beacon Farm Oast, Benenden Road, Biddenden, Ashford TN27 8BX

- 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 Simon Brotherwood against the decision of Ashford Borough Council.
 - The application Ref 21/01412/AS, dated 30 July 2021, was refused by notice dated 19 October 2021.
 - The development proposed is the erection of a new detached dwelling, together with associated garaging, parking, landscaping and biodiversity enhancements.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the proposal would be in a suitable location in terms of access to services and facilities; and
 - ii) the effect of the development upon the intrinsic character and beauty of the countryside.

Reasons

Suitable location

3. The site comprises an irregular parcel of grassland. There are timber buildings and hardstanding between the appeal site and road frontage associated with an established commercial use that comprise previously developed land. An access track runs through the site towards a large lake. The site is typically rural in character and benefits from a high degree of visual enclosure due to the heavily wooded boundaries and high gates to the site frontage.
4. Policy SP1 of the Ashford Local Plan 2019 (the development plan) states the strategic objectives of focussing development on accessible and sustainable locations and Policy SP2 of the development plan sets out the strategic approach to housing delivery, with windfall development needing to be consistent with the spatial strategy. Policy HOU5 of the development plan relates to residential development windfall sites in the countryside and sets out that development will be limited to a number of different circumstances. These policies are consistent with paragraphs 79 and 80 of the National Planning Policy Framework (the Framework). Acceptability under Policy HOU5 is subject

to being adjoining or close to named settlements and accessibility to basic day to day services and public transport links.

5. Policy HOU5 of the development plan is predicated on the site adjoining or being close to the settlement, and although that latter requirement is not defined, the supporting text refers to an 800m walking distance, while acknowledging that a higher or lower figure may be appropriate in individual circumstances. The proposal would not be within a settlement. The nearest settlement listed within the policy is Biddenden. Whilst there is debate between the parties as to the precise distance between the site and the settlement, it is clearly located in excess of the 800m walking distance. From the evidence before me and from my site visit, access to the settlement and its services is limited. My attention has not been drawn to any access by public transport. Given the lack of footways and public transport, the proposed future occupants of the dwelling would be entirely reliant upon private vehicle use to meet their basic day-to-day needs. Accordingly, the site is not well related to the settlement and there is no reason to accept a longer walking distance as being appropriate in this case. Consequently, the proposal fails to comply with this element of Policy HOU5.
6. The appellant has put forward that the proposal would be a form of infill development, stating that there are residential and commercial buildings in the locality and that the appeal site is not visually isolated. I consider that infill development is normally associated with the completion of an otherwise substantially built-up frontage of several buildings or at the very least, the consolidation of a largely built-up area. Whilst there are other dwellings along Benenden Road these are dispersed and physically separated from the appeal site with notable gaps. Consequently, it would not complete an otherwise substantially built-up frontage of several buildings. The proposal and the buildings nearest to it would form a small cluster, however, given their size and isolated rural location I consider that they would not consolidate a largely built-up area. For these reasons I find that the proposal would not be infill development and I consider the location to be isolated such that paragraph 80 of the Framework to be applicable.
7. I have had regard to the appellants statement of case including matters relating to on-site security presence for an established business to deter crime. Limited information has been submitted regarding this and I am not satisfied that the fear of crime justifies the need for any on-site residential accommodation. Moreover, there would be other options open to the appellant to monitor the site remotely including CCTV and security systems. It is not uncommon for buildings within countryside locations to be remotely monitored for such concerns of fear of crime, I therefore attach limited weight to this consideration. Accordingly, this does not alter my position that the site would not be in a suitable location for residential development.
8. The list of exceptions for development in the countryside as set out in Policy HOU5 of the development plan are consistent with those listed in paragraph 80 of the Framework. The proposal does not meet any of the exceptions listed and consequently the development would be contrary to the development plan and the Framework which requires housing to be located where it will enhance and/or maintain the vitality of rural communities.

9. My attention has been drawn to planning permissions for dwellings in the local area, including Decisions by the Secretary of State. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance which refers to the importance of determining similar cases in a similar manner.
10. The appellant refers to an appeal decision for a single detached dwelling at the land east of Chestnuts, Biddenden under reference APP/E2205/W/20/3255381. The context of this site differs from the appeal before me as this was a small site surrounded by dwellings, closer to the settlement of Biddenden. As a result, this case is not comparable. With regards to the grant of permission in June 2018 for a single dwelling on a site known as Silver Birches, under reference 18/00062/AS, this site was located within a ribbon of residential development, related to an extant permission and the decision was made before the adoption of the current development plan. For these reasons the circumstances are not comparable. The decision at Kypp Cottage, reference 17/01013/AS dated September 2017, related to the demolition of an existing block of 6no. garages and outbuilding and proposed erection of a pair of 3-bed semi-detached dwellings. This decision was made before the adoption of the current development plan and the nature of the development differs such that I am satisfied that it is not comparable. The appellant has also drawn my attention to a recent decision at Woolpack Corner Farm (ref 22/00478/AS). This case relates to an extant permission where the dwelling formed part of a cluster of dwellings and agricultural buildings and was regarded as an infill plot. The site is located adjacent to a public right of way and having regard to these considerations I do not consider the case to be comparable with the appeal before me.
11. Taking account of the above appeal decision and planning permissions, I consider the material considerations in those particular instances differ from this appeal proposal. As a result, I have dealt with this appeal on its own merits.
12. For the reasons outlined above, the proposed development would not be in a suitable location in terms of access to services and facilities having regard to the relevant local and national planning policies for the delivery of housing. Accordingly, the proposal would conflict with policies SP1, SP2 and HOU5 of the development plan and the Framework which seek to promote sustainable development and protect the open countryside.

Intrinsic character and beauty of the countryside

13. The surrounding area is characterised by a mix of fields and woodland interspersed with built development. Whilst there are other dwellings along Benenden Road these generally front the road and are sporadic, typically separated by notable gaps.
14. The dwelling would encroach into a field, beyond the established pattern of development. This would be discordant with the pattern of built form in the locality which is characterised by scattered clusters of linear development along the main roads. Although a substantial property, the size, design and orientation of the proposed dwelling would not be out of character in the surrounding area. The dwelling would not be highly visible from public vantage points due to the location of the dwelling being set back significantly from the road frontage, the presence of existing built development, the undulating

topography of the site, the high wooden gates to the site access and the heavily wooded backdrop. The domestication of the plot would give rise to a suburban appearance contrary to the character and appearance of the site and open countryside.

15. For the reasons set out above, the proposed dwelling would cause harm to the intrinsic character and beauty of the countryside. The development would conflict with requirements of Policies SP6, HOU5 and ENV3a of the development plan and the Framework which requires development to be sympathetic within the wider landscape, respond positively to character, distinctiveness, sense of place and to the setting of the nearest settlement. I conclude that the proposed development would conflict with the Framework insofar as the dwelling would cause harm to the intrinsic character and beauty of the countryside.

Other Matters

16. The proposal is supported by an Ecological Appraisal. This includes details of protected species surveys undertaken, as well as measures to mitigate the effects of development and enhance biodiversity. Kent County Council Ecological Advice Service has advised that sufficient ecological information has been provided. I have no compelling reason to find differently, and subject to planning conditions to require further details and implementation of mitigation and enhancement measures, I find that there would not be unacceptable harm to wildlife or biodiversity. However, this would not outweigh the identified harms.
17. The dwelling would be accessed via an established vehicular access point onto Benenden Road and would have limited effect on the number of vehicles accessing the site. Consequently, there are no highway safety concerns.
18. The proposal would provide for appropriate living conditions for the future occupiers of the dwelling. Surface/foul water drainage and landscaping could be conditioned if I were to allow the appeal. However, this does not change my position on the main issues.
19. The Council cannot demonstrate a five-year supply of deliverable housing sites. There is some debate between the parties as to the extent of the shortfall of the supply. Nevertheless, in circumstances such as this paragraph 11 d) of the Framework states the most important policies for determining the application should be considered out-of-date. There would be moderate, social and economic benefits associated with the proposal relating to construction employment and spend within the local economy once the dwelling is occupied. The dwelling would also contribute towards housing provision. However, given the small scale of the proposed development the weight afforded to these benefits is limited. As I have found conflict with the policies of the Framework on the main issues, in accordance with paragraph 11 d ii) I consider that the harm would significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework when taken as a whole.
20. I appreciate the proposal has some support locally from the Parish Council, however, this does not alter my findings on the main issues.

Conclusion

21. I have identified that the proposal is not in a suitable location for new housing in terms of access to services and facilities and that it would result in harm to the intrinsic character and beauty of the countryside which would conflict with policies of the development plan and the Framework. Although the proposal may comply with other policies, it would conflict with the development plan as a whole. There are no material considerations which indicate a decision other than in accordance with the development plan and therefore I conclude that the appeal should be dismissed.

R. Gee

INSPECTOR