



Appeal Decision

Site visit made on 7 August 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2023

Appeal Ref: APP/E2205/W/22/3294002

Smeeth Hill House, Hythe Road, Smeeth TN25 6ST

- 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 Ms P Martin against the decision of Ashford Borough Council.
- The application Ref 21/00655/AS, dated 8 April 2021, was refused by notice dated 21 December 2021.
- The development is described on the application form as 'application for stationing of a static caravan (mobile home) for residential annexe use by the groundsman for a temporary period of 3 years and installation of septic tank (permanent). Retrospective in response to letter ref CO/20/00284'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has not raised a concern about the septic tank, and I have no reason to take a different view. My decision therefore focuses on the static caravan, which is in place.

Main Issues

3. The main issues are:
 - whether the site would represent a suitable location for the development having regard to the development strategy for the area;
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on the Stodmarsh European Site.

Reasons

Policy Context

4. There appears to be a dispute between the main parties in terms of whether the development is a residential annex or a dwelling. This has a bearing on whether Policy HOU5 or Policy HOU9 of the 2019 adopted Ashford Local Plan 2030 (the LP) would apply. Policy HOU9 allows for detached annex accommodation to residential properties subject to certain criteria which are mainly directed towards ensuring that the annex is appropriately sited and designed and that it has a real and functional relationship with the occupation of the main dwelling. Policy HOU5 allows for residential development outside of settlements in certain circumstances.

5. The supporting text to Policy HOU9 states that standalone annexes can serve a number of functions, for example staff accommodation. The appellant argues that as the development is used by the groundsman who maintains the estate grounds across Smeeth Hill House and Paddock Hill Farm, the proposal would represent a residential annex. However, the Council considers the development to be a dwelling.
6. It has not been necessary for me to reach a definitive view on this matter. This is because I have considered the development against both Policies HOU5 and HOU9.

Location

7. Policies SP1 and SP2 of the LP seek to focus development at accessible and sustainable locations and resist isolated new homes in the countryside. Policy HOU5 allows for residential development adjoining or close to the built up confines of named settlements subject to certain criteria being met. The nearest named settlement in Policy HOU5 to the site is Brabourne Lees/Smeeth.
8. The Council identifies that the site is around 1.5 kilometres from the village, which is not specifically contested by the appellant. It is clearly separated from the village by intervening fields. Furthermore, the supporting text to the policy states that basic day to day services such as a grocery shop, public house, play/community facilities and a primary school should be within a generally accepted easy walking distance of 800 metres in order to be considered sustainable, although it does acknowledge that the specific local context may mean a higher or lower distance would be a more appropriate guide. Given the nature and extent of the site's separation from the village, my view is that it is not adjoining or close to its existing built up confines.
9. Policy HOU5 allows for residential development elsewhere in the countryside only in a limited number of circumstances. While appreciating that the land associated with Smeeth Hill House is extensive and would likely require a not inconsiderable amount of maintenance, there is no clear evidence of an essential need for a groundsman to live onsite or that the development represents appropriate enabling development to secure the future of a heritage asset. The development does not involve the re-use of a building nor is it a replacement dwelling or one which is of exceptional quality or innovative design.
10. Paragraph 80 of the National Planning Policy Framework 2021 (the Framework) seeks to avoid the development of isolated homes in the countryside unless one of the listed circumstances apply. Being mindful of the Braintree¹ judgement, the word 'isolated' would be taken to mean a dwelling that is physically separate or remote from a settlement.
11. The Framework does not define what constitutes a settlement for these purposes, nor does it specify a minimum number of dwellings or population for a settlement. The existing development located near to the site is limited to only a small handful of properties which are surrounded by open countryside. While the Braintree judgement notes that the lack of services may not 'necessarily' rule out a cluster of dwellings being considered a hamlet, there are

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

no services in this case, or any within close proximity to the site and this is a matter that filters into the overall judgement.

12. There is a pavement along the A20 in the vicinity of the site. However, the unlit nature of this road together with the lack of pavement and incline on the initial stretch of road leading to the facilities in the village together with the distance would be disincentives to travelling on foot or by bicycle, especially during darker winter months or in inclement weather. The appellant refers to frequent bus services to Ashford and Folkstone that run along the A20 road network, and which is used by the current occupier of the static caravan. However, no further details have been provided about the location of the bus stops or frequency of the services. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While taking this into account, I nonetheless find that the majority of journeys to access day to day services would take place using the private motor vehicle.
13. For these reasons, in my judgement, while the site is not physically separated from other built development, the nearby small group of properties is not a settlement for the purposes of determining whether the site results in an isolated home in the countryside. Even had I found that the site is not isolated in the sense referred to in paragraph 80, this does not in itself overcome the development's conflict with Policy HOU5 of the LP.
14. The development does not therefore comply with the locational aims of the LP or the Framework to avoid unsustainable patterns of development and to support the transition to a low carbon future.
15. I therefore conclude that the site does not represent a suitable location for the development having regard to the development strategy for the area. Consequently, the development conflicts with Policies SP1, SP2 and HOU5 of the LP as well as the objectives of the Framework, as summarised above.
16. Although Policy HOU9 does not seek to prevent residential annexes on this basis, it nevertheless requires that it is designed to ensure it does not result in significant harm to the overall character and appearance of the surrounding area. This is a matter which I address below.

Character and Appearance

17. The site falls within an area defined in the Council's Landscape Character Assessment as the 'Brabourne Lees Hilly Farmlands'. Key characteristics include hilly topography; a strong sense of enclosure provided by woodland blocks, hedgerows, landform and settlement; pasture for horses and livestock and large historic farmhouses to the south amid a parkland landscape of pasture and isolated trees.
18. While some built development is apparent in views of the site, it is nevertheless appreciated as being set within a predominantly open, green and rural setting. The prevailing landform comprises hedgerow enclosed fields, sporadic trees giving a parkland like character, interspersed with pockets of trees and woodland. This adds positively and distinctively to this countryside environment.
19. I appreciate that the siting of the static caravan has been chosen with the setting of the Grade II listed Smeeth Hill House and the Smeeth Conservation

Area in mind. Nonetheless, the static caravan is positioned in a prominent position when seen from the surrounding area, in particular the main road to the south and areas to the east. The site is partly screened by trees. Nevertheless, on my site visit I could see views of the static caravan between the trees. Such views would be more pronounced during winter months when at least some of the trees are not in leaf.

20. Owing to its size, light colour and prominent position, I find that the static caravan causes significant harm to the otherwise more open, green and rural setting that defines the landscape character of the area. While the site is relatively close to a number of buildings, the provision of a residential caravan is not a common characteristic in the landscape setting of the site. Furthermore, these buildings have muted tones. In contrast, the static caravan is appreciated by passers-by as being bright and stark in the landscape and, in this regard, harm is caused.
21. I note the appellant's willingness to accept a planning condition to require additional planting. However, any planting would take time to mature to the extent that it would provide adequate mitigation.
22. I therefore conclude that significant harm is caused to the character and appearance of the area. The development does not therefore accord with the landscape character, appearance, and design requirements of Policies ENV3a, SP1 and SP6 of the LP.
23. Were I to agree with the appellant that the development is a residential annex, then it would conflict with the design objectives of Policy HOU9 for the same reasons.

Stodmarsh European Site

24. The Stodmarsh European Site is of national and international importance for a range of water-dependant habitats including lakes and the wildlife that relies upon these habitats. Natural England is concerned about the impact arising from excessive nutrients including those from wastewater discharges. As it would increase wastewater discharge, further housing development within the Stour river catchment could exacerbate the existing impacts and so threaten the conservation status of the European Site. To avoid this, the advice of Natural England is that such development should achieve nutrient neutrality.
25. The site falls within the Stour Upper Operational Catchment. The appellant's appeal statement sets out that the static caravan was in situ prior to Natural England's 2019 guidance on this matter and so there would be no net increase in nutrient production for the site. However, the application form identifies that the static caravan has been at the site since December 2020.
26. The appeal proposal comprises residential development with additional occupiers and therefore additional wastewater generation. There is no basis for me to dispute Natural England's advice on the proposal's likely impact on the European Site's qualifying features in view of its current condition and conservation objectives. Consequently, when considered in combination with other developments in the area, there would be a likely significant effect on the qualifying features of the European Site from the proposal.
27. As the competent authority, it is therefore necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the proposal on the

integrity of the European Site. However, there is insufficient information before me to complete an AA. I cannot therefore conclude that the development does not have an adverse effect on the integrity of the European Site. This is contrary to the habitats and biodiversity requirements of Policy ENV1 of the LP and the Framework and adds to the objections to the appeal proposal.

28. The appellant's view is that as the development is for annexe style accommodation, Natural England's standing guidance is not relevant, as the static caravan is subsidiary to the main dwelling. However, there is no evidence before me to confirm this position with regard to the Stodmarsh European Site.

Other Considerations

29. The Council's evidence confirms that it cannot demonstrate a five year supply of deliverable housing sites, with the position given as a 4.8 years supply. I have not been provided with any evidence to indicate that such a position has changed. Therefore, paragraph 11. d) of the Framework is engaged.
30. The provision of a residential caravan on the site would assist in making some temporary contribution to the supply of housing in the area. However, the contribution from a residential caravan and, importantly on the basis of a temporary three year planning permission, would not be substantial. Indeed, as permission is sought only for three years, the development would not come in to the five year housing land supply as it would have to be removed by condition within the same five year period.
31. There would be some economic benefits associated with occupants of the static caravan via local spend and support given to the use of local services and facilities. Nonetheless, this would not be a significant benefit given that only one residential unit is under consideration and as a three year planning permission is sought.
32. Given the location of the static caravan, I do not find that it causes harm to the significance of the listed Smeeth Hill House or the Smeeth Conservation Area. This is a position shared by the Council. However, this is a matter of neutral consequence in decision making terms.
33. Consequently, the adverse impacts of the development as set out above significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

34. The appeal proposal conflicts with the development plan taken as a whole, and there are no material considerations that would indicate a decision other than in accordance with the development plan. Therefore, for the reasons given, the appeal should be dismissed.

F Wilkinson BSc (Hons), MRTPI

INSPECTOR