



Appeal Decision

Site visit made on 8 August 2023

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/L2250/W/22/3292726

Land rear of Barnstormers, Stone Street, Stanford TN25 6DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Concept Estates Ltd against Folkestone and Hythe District Council.
 - The application Ref 21/1142/FH is dated 20 May 2021.
 - The development proposed is the erection of four dwellings, together with access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council says that had it determined the application it would have been refused on the grounds that the proposed development was located outside any defined settlement boundary and would be out of character with the area, would fail to preserve the setting of Stanford Windmill, would harm designated sites of nature conservation and would harm highway safety due to inadequate visibility splays and turning area. The latter two grounds are predicated on a lack of information contained with the application.
3. Following the appeal being lodged, the Folkestone & Hythe District Council Core Strategy Review 2022 (Core Strategy 2022) has been adopted. This supersedes the Core Strategy 2013, which is now withdrawn. Both main parties have been given the opportunity to comment on this change in status. I have had regard to those policies in the new Plan that have been drawn to my attention.

Main Issues

4. Having regard to observations made by both main parties in their statements of case, I consider the main issues to be the effect of the development on:
 - The spatial strategy for the location of new development and effect on the countryside
 - The Stodmarsh designated nature conservation sites
 - The setting of the grade II* listed Stanford Windmill
 - Highway safety.

Reasons

Spatial strategy and countryside

5. Stanford is identified in Table 4.4 of the Core Strategy 2022 as a secondary village within the district settlement hierarchy¹. The purpose of secondary villages is to continue to provide crucial rural facilities to visitors and their own residents and workforce, in line with local needs, their environment, and role as relatively small country settlements. This represents a change from its previous status as a primary village under the Core Strategy 2013, where it had a wider role to contribute to strategic aims as well as local needs. For this part of the district, that strategic role is now directed to the new garden settlement at Otterpool Park. Nevertheless, development may still be acceptable in principle within secondary villages, in proportion to their size and spatial purpose, in accordance with Policy SS3 of the Core Strategy 2022.
6. Policy SS1 of the Core Strategy 2022 says that development outside identified centres in the open countryside and on the coast (defined as anywhere outside the settlements within Table 4.4) will only be allowed exceptionally, where such a location is essential.
7. Other than for its access, the appeal site lies outside the settlement boundary of Stanford as defined on the Policies Map. However, it does not constitute open countryside. The use of the site as domestic garden land is established. It is bounded on two sides by the residential gardens of dwellings which fall within the settlement boundary, and the other two sides are bounded by hedges and trees which help to screen it from arable land to the west and what appears to be paddock land to the south. In land use and visual terms it therefore forms more a part of the village than it does the surrounding countryside.
8. Although it is not essential to locate the proposed development in the countryside, its scale is proportionate to the size of the village and would meet primarily local rather than strategic housing needs. Given the lack of harm to the countryside, and the modest scale of the development, the principle of residential development was acknowledged as being acceptable on the site in pre-application advice and in the officer's draft report, although I note that view is not shared by representors, including the Parish Council.
9. The Council does, however, criticise the backland form of development as being uncharacteristic of the linear pattern of the village, where buildings front Stone Street and their rear gardens provide a transition to the countryside beyond.
10. While Stanford can generally be described as a linear village, that is not strictly true in the vicinity of the appeal site. Kennett Lane provides a return from Stone Street with residential dwellings along its southern side and sizeable buildings at Yew Tree Farm to the north. Millers Court serves a small group of dwellings to the rear of other dwellings fronting Kennett Lane. Short spurs such as Yew Tree Close and Church Field provide development in depth off Stone Street further to the north. There are therefore instances where development has taken place behind houses fronting existing roads in the village. Having regard to these examples, I consider that the proposed development could be

¹ Although it is labelled on Figure 4.2 of the Core Strategy 2022 as a primary village; I take this to be a drafting error.

accommodated on the site without harming the character or appearance of Stanford.

11. The Council raises no objection to the internal layout, size or appearance of the proposed houses in so far as they relate to the character of the village or surrounding countryside. The grouping of the buildings around a central courtyard would avoid a suburban layout and would allow for the retention of generous space to the west, which would provide a soft edge to the farmland.
12. Because the majority of the site lies outside the defined settlement boundary and there is no need for the proposed dwellings to be sited in the countryside, I conclude that there would be a conflict with Policy SS1 of the Core Strategy. However, for the reasons given above the development would not intrude into open countryside, nor would it harm the character or appearance of the village either through its location behind dwellings fronting Stone Street, or its internal layout and design. It would therefore accord with Policy SS3 of the Core Strategy, and Policies HB1 and HB10 of the Folkestone & Hythe District Council Places and Policies Local Plan 2020 (the Local Plan), which seek to ensure good design that responds to the character and appearance of the area and is of appropriate size and shape. The harm resulting from the conflict with Policy SS1 of the Core Strategy is therefore limited.

Nature conservation

13. The Stodmarsh is an area of wetland lying to the east of Canterbury. It is designated as a Special Area of Conservation, a Special Protection Area, a Ramsar site, a site of Special Scientific Interest and in part as a National Nature Reserve. These designations underline its national and international importance for nature conservation. There is a requirement under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) to assess whether the proposed development would be likely to have a significant adverse effect on its nature conservation status, and if so whether that effect can be adequately mitigated.

Appropriate assessment

14. The conservation status of the Stodmarsh is currently unfavourable because it is suffering from eutrophication due to excessive nitrogen and phosphorus levels in water draining into the lakes from the River Stour. Waste water from the appeal proposal would drain to the Sellindge Waste Water Treatment Works, which outfalls to the River Stour. Nutrient levels are not sufficiently lowered by the Sellindge Works to prevent that outfall from contributing towards eutrophication of the Stodmarsh. Therefore, when taken with other residential development in the River Stour catchment area, the proposal has the potential to have a significant adverse effect on the nature conservation status of the Stodmarsh.
15. The consultation response from Natural England confirms that there is likely to be a significant effect on the Stodmarsh and seeks additional information. An assessment submitted by the appellant² notes the potential for a significant adverse effect on the Stodmarsh nature conservation sites and the need for mitigation. However, I have been provided with no details of what mitigation is required or how it would be secured. The appellant's assessment notes that a

² Hume Planning Consultancy, Habitat Regulation Assessment Screening Matrix and Appropriate Assessment Statement, July 2021

strategic solution is being developed by the Council which is expected in due course to provide suitable mitigation, but I have no evidence that such an approach has been developed or is available at the current time.

16. In the circumstances, I cannot rule out the possibility that the proposed development would have a significant adverse effect on the Stodmarsh designated nature conservation sites. The amount of additional waste water generated by it would be small, but based on the precautionary principle adopted by the Habitats Regulations, some adverse effect could still occur. In the absence of any evidence to the contrary, I conclude that the development would conflict with Policy NE2 of the Local Plan, which seeks to protect all sites of European and global biodiversity importance.

Setting of listed building

17. Stanford Windmill is a grade II* listed building standing to the northwest of the appeal site³. It is a tower mill built in 1851, consisting of a cylindrical base of two floors with a tapering section of three floors and a boat-shaped cap. It has no sweeps although there is a fanstage on the cap and an external gallery at second floor level. Its significance and special interest lie in the surviving internal mill machinery, unusual two stage design and rarity as a well-preserved example of a tower mill.
18. Because of its position some distance from the nearest public roads, views of the windmill are limited. It is most clearly seen from the end of Millers Court, a small residential close of modern houses that now surround the windmill. Because of its height, glimpsed views of the upper part of the windmill can also be gained from Kennett Lane and to a lesser extent Stone Street. More distant views of the listed building are obscured by existing buildings, trees or other greenery.
19. The appeal site forms an area of land to the south and east of the windmill. The map extracts in the heritage statement indicate that in the C19 the windmill would have been experienced in an open setting. However, that has gradually changed over the years with the construction of buildings along the Kennett Lane and Stone Street frontages. Mature trees have also now grown up along its southern and eastern boundaries. More recently, its setting has changed considerably with the development of domestic houses in Millers Court, including buildings immediately to the southeast and southwest of the windmill.
20. Although the appeal site is the last remaining area of open land adjacent to the windmill, there is little evidence to suggest that it has ever been functionally linked or historically associated with the windmill. The alterations that have taken place to its setting mean that views of it from the appeal site or surrounding land are now seen in conjunction with mature trees and/or domestic buildings. The windmill is now experienced together with the adjacent built development and a sense of openness is no longer a strong defining feature of its setting. The contribution the appeal site makes to the appreciation of the significance of the listed windmill is therefore limited.
21. Notwithstanding that limited role, the proposed development has been designed such that the western part of the site closest to the windmill would remain open, and the heights of the buildings on plots 1, 3 and 4 have been

³ List entry number: 1370011

kept low so as to avoid blocking the remaining views from Stone Street. Some additional public views of the windmill are also likely to become available along the access drive and from within the proposed development that are not available at present. That would increase in a small way the range of views from which the windmill could be appreciated.

22. The Council criticises the design of the proposed dwellings as being out of character with the listed windmill. In my view, the design approach adopted, which is one of incorporating material and features reminiscent of agricultural buildings (for example dominant roof forms and black weatherboarding) but in a contemporary style, is appropriate to the setting of the windmill. In the context of the wide range of building styles and materials used in the vicinity, many of which are more domestic in appearance, I consider that the appeal proposal would not harm the contribution that setting makes to the significance or special interest of the windmill.
23. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to preserving the listed building, its setting, or any features of special architectural or historic interest that it possesses. In this case, I conclude that the proposed development would preserve the contribution the appeal site makes to the setting of Stanford Windmill, and thereby preserve the significance and special interest of the listed building. For the same reason, it would accord with Policy HE1 of the Local Plan, which seeks to protect heritage assets.

Highway safety

24. The Council raises highway safety concerns relating to a lack of information to demonstrate the ability for a refuse vehicle to turn within the site, and that adequate visibility splays from the new access to Stone Street can be achieved. Those concerns are predicated on advice from the Highway Authority⁴.
25. It is not clear whether the Highway Authority has seen the highway related evidence submitted by the appellant. Be that as it may, submitted swept path diagrams⁵ show that both an 11.48m long refuse vehicle and a 7.88m long fire appliance could enter and exit the site in forward gear. This satisfactorily addresses the Council's first concern.
26. There is currently good visibility in both directions along Stone Street from the proposed access point, although that does rely partly on land outside the application site. Although visibility splays are not drawn on the appellant's highway plan, it does show the extent of the highway. Based on that information it appears that adequate visibility can be obtained to the recommended standard of 2m x 43m within land owned by the appellant or the Highway Authority.
27. Even if that were not the case⁶, I consider that given the modest scale of development proposed and the lightly trafficked nature of this part of Stone Street, it is reasonable to assess the proposed access as a private drive with direct frontage access rather than as a public road designed to adoptable standards. In such circumstances, visibility is more than adequate from the

⁴ Kent County Council, Highways and Transportation, letter 15 December 2021

⁵ Charles & Associates, Site Layout Review, drawing 20-064-003

⁶ Ownership of land adjacent to the carriageway is queried by the occupier of Hollybank

proposed access. In that respect I note that permission has previously been granted for a private access to Barn Bungalow in a similar position⁷.

28. In either case, I consider that the proposed development would not give rise to a highway safety hazard. The proposal would therefore comply with paragraphs 110-111 of the National Planning Policy Framework (the Framework), which require safe and suitable access to be provided to development sites. Policy T2 of the Local Plan is referenced in the Council's appeal statement but as this relates to parking it is not relevant in so far as this appeal is concerned.

Other Matters

29. Other matters have been raised in representations, including the impact on neighbouring occupants due to the proposed driveway, and possible undermining of the foundations to the listed windmill. Neither are matters on which the Council oppose the proposal. Having regard to the evidence presented to me, I also consider that those matters are not ones that are fatal to the scheme. Where necessary, they could be adequately addressed through conditional controls.
30. Kent County Council seeks financial contributions towards the provision of infrastructure as a result of additional demands arising from the development. However, the Folkestone and Hythe District Council charges a Community Infrastructure Levy and considers that the impacts identified by the County Council would be addressed through it. I have been given no evidence to suggest that would not be the case.

Conclusion

31. Although I have found no harm would be caused to the significance of the grade II* listed Stanford Windmill or to highway safety, I have found that the proposed development would conflict to a limited extent with the spatial strategy for the district, and in the absence of any mitigation would be likely to have a significant adverse effect on the Stodmarsh designated nature conservation sites. Having regard to these issues, I conclude that the development would conflict with the development plan when taken as a whole.
32. I recognise that the proposed development would result in the addition of four dwellings. Although there is no evidence to suggest that the Council is failing to deliver an adequate supply of housing land, this would still be of benefit in increasing the housing stock available to those seeking a home. There would also be modest economic benefits during the construction of the development and in the longer term from the activity of future occupiers.
33. In determining development proposals, paragraph 180 of the Framework advises that if significant harm to biodiversity cannot be avoided or mitigated, then planning permission should be refused. Given the importance that the Habitats Regulations, and current national and local policies place on protecting designated sites of nature conservation, I place significant weight on this matter.
34. Consequently, I find that the likely adverse effect on the Stodmarsh designated sites outweighs the benefit accruing from the development. That, and the

⁷ Y19/0457/FH

limited conflict with the spatial strategy, leads me to conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR