



Appeal Decision

Site visit made on 7 September 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/L2250/W/22/3310055

Former Piggery Site, Horn Street, Hythe CT21 5SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Hewlett against the decision of Folkestone and Hythe District Council.
 - The application Ref 21/1788/FH, dated 20 August 2021, was refused by notice dated 20 May 2022.
 - The development proposed is a self-build development of five detached houses, together with vehicular access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative.
3. Following the provision of new evidence, there is now no dispute between the main parties in respect of highway safety. I have no reason to disagree with those findings and do not consider these matters any further.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for housing having particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the countryside; and
 - the effect of the proposed development on protected species.

Reasons

Site and location

5. The appeal site is located near to but outside of any defined settlement boundary, and therefore within the open countryside. Notwithstanding this, as the site is located reasonably near to established residential properties, including Seabrook Vale, it cannot reasonably be described as 'isolated' within the terms of National Planning Policy Framework paragraph 80 (the Framework).

6. Policies SS1 and SS3 of the Folkestone and Hythe District Council Core Strategy Review (CS, 2022) set out that new development should be delivered in the most sustainable locations, unless certain exceptions apply. Those exceptions are set out within CS Policy CSD3 and include the provision of affordable housing and the re-use of redundant or disused buildings.
7. Some key services including a school, public house and local shops exist within the wider area. However, these are located a reasonably long distance away from the site, and would require future residents of the development, if travelling by foot, to proceed along the site's access road, then alongside Horn Street via a narrow footway. This journey would also require residents to cross the road at least once. The journey would be particularly undesirable in winter months, after dusk or during inclement weather conditions.
8. I also acknowledge that there are public rights of way in the area, including near to the appeal site, which could in part be used to reach services and facilities. However, these routes are not sufficient to rely on, particularly as they are unlit and of an uneven terrain. Furthermore, the nearest bus stops are located approximately 750 metres away from the site, accessed by the same unsatisfactory routes.
9. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwellings would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory walking routes and a lack of public transport facilities within a reasonable distance of the site.
10. In respect of whether the proposed development would meet any of the exceptions set out by CS Policy CSD3, it would involve the demolition of the existing buildings and their replacement with five new market dwellings. From that perspective, the proposed development would fail to meet any of the exceptions.
11. For the above reasons, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of CS Policies SS1, SS2, SS3 and CSD3. These policies, in summary, seek to ensure development is located in the most sustainable locations. This is in a similar vein to the objectives of paragraph 104(c) of the Framework, which says that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote sustainable transport are identified and pursued.

Character and appearance

12. The appeal site comprises a parcel of land occupied by a series of derelict buildings, together with areas of undeveloped land. The entrance to the site is modest and set within mature landscaping and trees. The part grassland nature of the site, together with the surrounding area of woodland and wider landscape, contributes to a verdant, rural character along this part of Horn Street.
13. The proposed development would comprise a cul-de-sac arrangement of five dwellings, set away from Horn Street. It would be accessed by a new road from the widened Horn Street entrance, along an existing access track and through

currently undeveloped grassland. That access would be highly visible from Horn Street. The wider development would be visible from the adjacent right of way, from nearby private vantage points and, through gaps in landscaping, from Horn Street.

14. The combination of the proposed dwellings together with the proposed access road would introduce built form to a site which is, in the most part, rural in character. The proposal, when taken as a whole, would have a harmful urbanising effect on the site and surrounding area.
15. There is no dispute between the Council and appellant that some parts of the site form previously developed land. Nevertheless, this does not automatically mean that development will be appropriate. Whilst I do not deny that the existing buildings are reasonably substantial, they are derelict and have blended into the landscape somewhat. In that respect, they could be said to have a neutral impact upon the character and appearance of the site and surrounding area. As landscaping is not before me, there is nothing substantive to include otherwise in that respect.
16. Overall, I conclude that the proposed development would be discordant and out of keeping with the established pattern and rhythm of development in the surrounding area. It would run contrary to the relevant provisions of Policies HB1, HB2, C1, and NE3 of the Folkestone and Hythe District Places and Policies Local Plan (LP, 2020), which in summary seek to protect and conserve the inherent natural beauty of the countryside and Special Landscape Area. This is in a similar vein to the objectives of the Framework insofar as high-quality design and the protection of the countryside is concerned.

Ecology

17. LP Policy NE2 requires that new development conserves and enhances the natural environment. It sets out that development that enhances, retains and protects existing sites of nature conservation value will be supported. Similarly, LP Policy HB1 requires that developments create, enhance and integrate biodiversity. Paragraph 174(d) of the Framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
18. Based on surveys undertaken, the Council raises concerns around the potential of the proposed development to harm bats, and in particular a population of Natterers bat. Those concerns largely relate to the ecological appraisal and survey not covering the area near the bridge. The bridge would form part of the access to the proposed development and so would be affected. Moreover, there is concern in respect of the proposed mitigation measures. In particular, that the area in which proposed bat boxes are to be provided is located outside of the appeal site.
19. I accept that the site is not designated in ecology terms. Nevertheless, there is insufficient substantive evidence before me to demonstrate that the management and enhancement of the site would avoid harm to existing bat populations. Without greater certainty, it is not possible to satisfactorily demonstrate that the proposed development would have an acceptable effect on the protected species or that it could meet the requirements of policies in this respect.

20. Consequently, I conclude that there is insufficient evidence before me to demonstrate that the proposal would have an acceptable effect on protected species, in particular bats. This is contrary to the relevant provisions of LP Policies HB1 and NE2 which, in summary, seeks to ensure that development proposals avoid negative impacts on biodiversity and protected species. This is in a similar vein to the objectives of paragraph 174(d) of the Framework. Even were this issue found to be acceptable, it would not overcome the harm identified in respect of the other main issues.

Other Matters

21. The appellant's evidence sets out that the proposed development would be a self-build scheme. In considering this matter, I have had regard to the Council's duties under the Self Build and Custom Housebuilding Act 2015. The Council is required, under this legislation, to keep a register of individuals or associations who are seeking to acquire serviced plots of land in the district on which to build their own home.
22. There is some disagreement between the Council and appellant as to the actual demand for self-build plots in the district. The Council admits that there is a shortfall in supply but that the number of individuals on the register is lower than the number of sites coming forward through allocations in the development plan, or through windfall sites. Whilst this is noted, I remain unclear as to the status of planning permissions on those allocated sites or numbers of plots overall.
23. Therefore, if I were to agree with the appellant's position in respect of the provision of self-build plots, taking into account all of the evidence before me, the proposed development would contribute to the Council's requirement to make adequate provision for self-build dwellings, albeit this would be limited due to the nature of scale of the proposal. This is a consideration to which I afford moderate weight.
24. I also acknowledge that there would be some economic benefits to the proposed development, including through increased trade to businesses and services during construction and once the dwellings were occupied. However, the scale of the proposal together with its location some distance away from local services and facilities, is such that these benefits would be limited. I also accept that the proposed development would make use of a small site, which is supported by the Framework, and I do not doubt the appellant's environmental commitments. Nevertheless, these matters are given limited weight.
25. Overall, the identified adverse impacts of the development and the conflict with the development plan, to which I have afforded significant weight, would significantly and demonstrably outweigh the benefits outlined above.

Conclusion

26. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR