



Appeal Decision

Site visit made on 15 August 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/V2255/W/22/3312007

Oast View, Track to Kingsdown Church, Kingsdown, Kent ME9 0AS

- 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 Mark Colby against the decision of Swale Borough Council.
 - The application Ref 22/503972/FULL, dated 11 August 2022, was refused by notice dated 21 October 2022.
 - The development proposed is new 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address from the decision notice, as this more accurately represents the location of the development.
3. While it is not within my remit to determine landownership, third parties question whether appropriate notice has been served to all landowners and agricultural tenants. The appellant is satisfied that the correct notice has been served and that matters relating to unregistered land can be dealt with through the conveyancing process. I have no reason to reach a contrary conclusion to the appellant on this matter.
4. Both parties agree that less than substantial harm would be caused to the significance of adjacent heritage assets, albeit that this could be argued to be neutral. As a result of the evidence before me, third party comments and my site visit, I have elevated this matter to a main issue. Both parties have had the opportunity to comment and I have taken all comments received into consideration.

Main Issues

5. The main issues are:
 - whether the appeal site represents a suitable location for the proposed development;
 - the effect of the proposed development on the character and appearance of the area, having particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposed development on the setting of the Grade II listed buildings, known as the Church of St Catherine and Church Oast; and,

- whether the proposed development would provide sufficient parking for the new dwelling, having particular regard to highway safety.

Reasons

Location

6. Policy ST3 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement strategy for the borough. It gives priority to development of previously developed land within the defined built up boundaries and on allocated sites. The appeal site falls within the open countryside, which is the lowest tier of the settlement hierarchy. In such areas, Policy ST3 states that development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside.
7. The appeal site previously contained agricultural buildings and is believed to have contained cottages. Remnants of previous buildings remain on site. The National Planning Policy Framework (the Framework) is clear that land which is or was last occupied by agricultural buildings or where the remains of a permanent structure have blended into the landscape are excluded from the definition of previously developed land. The remains of any previous structures that once stood on the site have now blended into the landscape. Accordingly, the appeal site does not fall within the definition of previously developed land.
8. The appeal site is located approximately 1 mile from the village of Doddington, which contains a limited range of facilities including a public house, butchers and a service station. Sittingbourne town centre is approximately 3 miles away and contains a wider range of facilities including a train station, doctor's surgery, schools and shops. The site is accessed via a narrow rural lane. While it would be possible to walk or cycle to Doddington, the distance and lack of footway and streetlighting is likely to deter future occupants from doing so. Doddington also only has a limited range of facilities and services. The appeal site would be poorly related to existing services and facilities. Future residents would be heavily reliant on private motor vehicles to meet their day-to-day needs and this weighs heavily against the development.
9. Although the site lies adjacent to a small cluster of buildings, these buildings are remotely located within the open countryside and isolated from any settlement. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside, unless it meets one or more of the specified circumstances. The appellant argues that circumstances c) and e) are applicable in this appeal. The proposal would not re-use a redundant or disused building and therefore circumstance c) is not applicable. As discussed further below, the proposed design would not be of exceptional quality or truly outstanding, neither would it significantly enhance its immediate setting or be sensitive to the defining characteristics of the area and therefore would not fall within circumstance e). Consequently, the proposal does not fall within any of the circumstances set out within paragraph 80 of the Framework.
10. The appellant argues that the proposal would be justified by Policy DM11 of the Local Plan. However, Policy DM11 is not applicable to this appeal as the proposal would not rebuild an existing dwelling.

11. For the reasons given above, I conclude that the appeal site would not be a suitable location for the proposed development. The proposal would fail to comply with Policies ST1, ST3 and DM14 of the Local Plan, which among other things seek to deliver sustainable development; restrict development in the open countryside; and, require that development is well sited and appropriate to its location. The proposal would also be contrary to the Framework, which seeks to ensure that new residential development is accessible to existing services and facilities.

Character and appearance

12. The appeal site lies within the AONB. The Framework requires that great weight is given to conserving and enhancing the landscape and scenic beauty of AONBs. The area is characterised by sporadic development, set within an agricultural landscape. The appeal site lies adjacent to ecclesiastical buildings, a dwelling and an oast house, which is now in residential use. Trees and soft landscaping frame this small cluster of buildings. In contrast, the landscape surrounding these buildings is more open in character, consisting of agricultural fields. The topography of the area is generally flat. The church spire and kilns on the oast are prominent features above the tree line within the landscape.
13. The appeal site has a green and leafy character. While it may contain fallen trees and remnants of former buildings, these are largely hidden by the existing soft landscaping. Although the soft landscaping is somewhat overgrown, the green and open character of the appeal site makes a positive contribution to the character and appearance of the area and the AONB.
14. The proposed dwelling has been designed to appear like an agricultural barn, with a single-storey front elevation. It would incorporate materials such as dark timber cladding and clay tiles, which would respect the local vernacular. The proposed dwelling would be partially screened from the public realm by the existing and proposed soft landscaping. However, views of the proposed development would still be available from the lane, particularly via the new access and through and above the landscaping from the public bridleway. While barns are commonplace in the countryside and often accompany oasts, the provision of an attached double garage, hardstanding for parking, large extent of fenestration (particularly on the north-east elevation), the flat roof projection and the addition of domestic paraphernalia would all contribute to the proposal being read as a new dwelling, rather than an agricultural building.
15. The proposal would have an urbanising effect on the appeal site and the locality and would fail to respect the character of the former farmstead. It would transform the existing site from a green open space to one comprising residential built development. The proposed development would detract from the rural characteristics of the area and cause significant harm to the landscape and scenic beauty of the AONB.
16. While the environmental credentials of the proposal, including the provision of renewable energy technologies, locally sourced and environmentally friendly building materials, water efficiency measures, high thermal performance, biodiversity enhancement measures and desire to keep the landscaping as natural as possible are commended, the overall design of the scheme is not truly outstanding, neither would it reflect the highest standards in architecture or help to raise standards of design more generally in rural areas. The proposal would therefore be contrary to paragraph 80 of the Framework.

17. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and the landscape and scenic beauty of the AONB. The proposal would conflict with Policies DM14 and DM24 of the Local Plan, which among other things require that development proposals conserve and enhance the natural and/or built environments. The proposal would also conflict with principles SD2, SD3 and SD9 of the Kent Downs AONB Management Plan 2021-2026, which require that the local character, qualities and distinctiveness of the AONB are conserved and enhanced and the historic and locally distinctive character of an area are maintained and strengthened.

Setting of listed buildings

18. The appeal site forms part of the setting of the Church of St Catherine and Church Oast, which are Grade II listed buildings. In accordance with the statutory duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of the listed buildings in the determination of this appeal. The church lies to the south-west of the appeal site. The significance of the church derives from its high quality example as a Victorian parish church and its architectural features, including its tower with angle buttresses and crocketed broach spire, which is a prominent feature in the rural landscape.
19. Church Oast lies to the east of the appeal site and has been converted into a dwelling. The significance of Church Oast derives from its square kilns with pyramidal roofs and wooden cowls with winders, which are highly visible in the landscape. The oast contributes towards the social and agricultural history of the locality. The oast also has group value with the Church of St Catherine, as acknowledged within its listing description.
20. The open and green nature of the appeal site contribute to the rural setting of both listed buildings. The appellant's Heritage Impact Assessment (HIA) acknowledges that the setting of the church makes a strong positive contribution to its significance. The HIA considers that the key aspects of the church's setting include its group value with Church Oast and its rural surroundings. While the site is not currently in agricultural use, it provides an open and green space between the church and the oast and contributes to the rural surroundings of both buildings.
21. The HIA argues that the development would result in a positive change to Church Oast, as the site previously contained an agricultural building and the provision of a barn style development would enhance the context of the oast and better reveal the oast's significance, which is now isolated from other agricultural buildings. While the proposed design seeks to resemble an agricultural barn, the domestic influences that I have outlined above, would mean that it would be read as a new dwelling. The proposal would not better reveal the agricultural significance of the oast. The provision of a contemporary dwelling in the style of an agricultural building would result in harm to the significance of the oast.
22. I acknowledge that the proposal would not interrupt the skyline and enable the spire and kilns/cowls to be appreciated. The proposed dwelling would also be lower in height than the adjacent listed buildings, set back in its plot and partially screened by existing and proposed planting. However, it would be visible from the public realm and given its siting between the church and oast

would interrupt the relationship and group value of these heritage assets. Accordingly, the proposal would result in harm to the significance of the Church of St Catherine and Church Oast. As the harm would be localised, I find the harm to be less than substantial to both heritage assets, but nevertheless of considerable importance. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.

23. The provision of a new dwelling would align with an objective of the Framework, which seeks to significantly boost housing supply. The Framework also acknowledges the importance of small sites in meeting the housing requirement of an area. The proposal seeks to provide a self-build, life-time home, which would be accessible for a disabled person(s). The proposed dwelling would make a small contribution towards the Council's housing land supply and add to the diversity of the Council's housing stock. However, given the proposal only seeks to provide one dwelling, I give the social benefits of the scheme limited weight.
24. There would be short-term economic investment from the construction of the development and future residents would help to support local services and facilities. However, given the short term nature of the construction works and the limited local facilities available, future residents are likely to travel further afield to meet their day-to-day needs and I therefore give the economic benefits of the scheme very limited weight. The proposed environmental benefits include remediation of the site, provision of renewable energy technologies and energy efficiency measures, use of locally sourced and environmentally friendly building materials, water efficiency measures, biodiversity enhancement measures and new planting are supported but are all fairly commonplace measures. Given the landscape harm that I have identified, I give the environmental benefits of the scheme limited weight.
25. The appellant ascertains that the proposal would provide affordable housing. The proposal would provide a good sized, 3 bedroom family house, with home office and gym/wellness room. The proposal would provide market, rather than affordable housing and would not be affordable to people on lower incomes. The provision of an electric vehicle charging point is a requirement under separate legislation and is not a planning benefit.
26. Overall, the proposed benefits carry limited weight in favour of the development. As a result, there are no public benefits of sufficient weight to outweigh the less than substantial harm that would arise from the development.
27. For the reasons given above, I conclude that the proposal would harm the significance of designated heritage assets and would conflict with Policies ST1 and DM14 of the Local Plan. These policies among other things require that development conserves and enhances the historic environment, taking into account the desirability of sustaining and enhancing the significance of heritage assets.

Parking

28. The proposal seeks to provide 2 car parking spaces on the driveway, plus a double garage. The Council's Parking Standards Supplementary Planning Document (SPD) May 2020 recommends that in rural areas a 3 bedroom dwelling provides 4 or more car parking spaces per dwelling. The SPD

recommends that a flexible approach is taken in respect to providing parking for new development and that these standards are only advisory in nature. While the length of the garage may not accord with the SPD, the size of the garage would be sufficient to accommodate 2 standard sized cars. There would be space on the driveway to accommodate additional visitor or delivery parking, if required. Consequently, the proposal would provide sufficient parking, which would be conveniently located for future occupants, without requiring overflow parking on the lane. As a result, there would be no obstructions on the public highway and no harm to highway safety would arise.

29. I conclude that the proposal would provide sufficient parking for the proposed development and would comply with Policies DM7 and DM14 of the Local Plan. These policies among other things require that developments provide appropriate provision for vehicle parking. The proposal would also comply with the Council's Parking Standards SPD, which seeks to provide appropriate parking on site, while ensuring the safe operation of the public highway.

Planning Balance

30. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that the most important policies for determining the appeal are deemed to be out-of-date and planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
31. As defined in footnote 7 of paragraph 11 d (i) of the Framework, the site is located within a protected area and would affect assets of particular importance. The proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB and would fail to preserve the setting and therefore the significance of designated heritage assets. Consequently, the application of policies in the Framework that protect AONBs and designated heritage assets provides a clear reason for refusing the proposed development. As a result, the presumption in favour of sustainable development does not apply in this case.

Other Matters

32. The Council advise that the site lies within the 6km zone of influence for The Swale Special Protection Area (SPA), which is a European protected site. However, there is no need for me to consider the implications upon the SPA, because the scheme is unacceptable for other reasons.
33. While I note that the Environmental Impact Assessment screening direction undertaken by the Secretary of State concludes that the proposal would not have a significant environmental impact, this direction is based on a different legislative framework and thresholds. The direction does not prejudice the determination of this appeal.
34. The appellant has drawn my attention to a scheme where prior approval was granted for 5 dwellings on a former farmstead in the locality. Limited details have been provided on the circumstances of this case; however, the prior approval would have related to the change of use of an existing building(s) and not for a new dwelling and is therefore not comparable.

35. While the Parish Council have not objected to the proposal, this does not affect my findings set out above.

Conclusion

36. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework that would outweigh this conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR