



Appeal Decision

Site visit made on 12 September 2023

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal Ref: APP/E2205/W/23/3314193

Orlestone Rise, Ruckinge Road, Hamstreet, Kent TN26 2NW

- 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 Iwan Jones (JIG Planning & Development) against the decision of Ashford Borough Council.
 - The application Ref 22/00884/AS, dated 31 May 2022, was refused by notice dated 3 November 2022.
 - The development proposed is construction of single detached dwelling with associated parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted a revised Site Layout Plan (drawing no. 29544B_101 Rev C) with the appeal documentation, which shows an increase from 2 to 3 parking spaces at the site. The Council has confirmed in its appeal statement that, on the basis of the revised drawing, the second reason for refusal related to parking has been addressed. I have therefore accepted the revised drawing as part of the appeal and have considered the appeal on the basis that the Council's second reason for refusal, and any associated conflict with policy TRA3a of the ALP, has been overcome.

Main Issues

3. The main issues are:
 - Whether or not the proposed development would conserve and enhance biodiversity; and
 - the effect of the proposal on the character and appearance of the surrounding area, with particular regard to the landscape buffer to the open countryside.

Reasons

Biodiversity

4. The appeal site forms part of the garden of Orlestone Rise and contains grassland, bramble scrub and mature trees. I have been provided with a Preliminary Ecological Appraisal (PEA), which identifies that the site has potential to support legally protected species and species of principal conservation importance. The PEA was prepared in support of a separate

planning application and has not been updated to reflect the addition of the appeal proposal.

5. I have had regard to the mitigation proposals contained within the PEA and the appellant's position that these remain appropriate and could be secured through condition. However, in the absence of updated evidence to show the effect of the appeal scheme on protected species and habitats, and the effectiveness of the proposed mitigation measures in the altered context, the development could cause harm to biodiversity.
6. I conclude that the proposal would fail to conserve and enhance biodiversity. This would be contrary to policies SP1, ENV1, HOU5 and HOU10 of the ALP and the National Planning Policy Framework (the Framework) insofar as they expect proposals to retain, conserve and enhance biodiversity.

Character and appearance

7. The appeal site sits in an elevated position, adjacent to the settlement of Hamstreet. Residential windfall developments adjacent or close to Hamstreet are supported in principle by policy HOU5 of the ALP, provided certain criteria are met, including that an appropriate landscape buffer would be provided to the open countryside.
8. The existing garden on the site provides physical separation between Carters Wood and the cluster of dwellings around Orlestone Rise. The volume of the space is likely to be compromised following the Council's recent grant of planning permission for a dwelling within the garden. Notwithstanding this, the site is largely screened from both public and private views by dense vegetation and trees. The woodland helps to soften the transition between the settlement and the rural area beyond.
9. The proposed dwelling would take access from the private track that serves Orlestone Rise via a new bellmouth that already has the benefit of planning permission. The dwelling would be set back within the site and, whilst the driveway and parking spaces would be positioned closer to Ruckinge Road, there would be no physical alterations to the street frontage. In this regard, the proposal is markedly different from the development considered in appeal ref. APP/E2205/W/21/3268274, which proposed 3 dwellings with access directly from Ruckinge Road and the removal of a number of trees.
10. The Council has not raised any concerns about the health and longevity of the trees in its reasons for refusal. Therefore, subject to the trees being retained and adequately protected, the sylvan character of the settlement edge would remain intact. Whilst the permanent retention of the trees could not be guaranteed, they would provide privacy and enclosure for future occupants of the dwelling and therefore are likely to be protected in the longer term. Moreover, even if partial views were to be gained from the public realm, the simple form of the dwelling and its layout within the site would be appropriate for the edge-of-settlement location.
11. I conclude that the development would be sympathetic to the character and appearance of the local area and would preserve the landscape buffer to the open countryside. It would therefore be in accordance with policies SP1, SP6, ENV3a, HOU5 and HOU10 of the ALP and the Framework insofar as they expect development to respond to local character and the wider landscape.

Other Matters

12. The appeal scheme would provide an additional dwelling and would therefore make a positive contribution to local housing supply. This would be in accordance with the provisions of the Framework, which seeks to significantly boost the supply of homes. The Framework also recognises the contribution small sites can make to meeting local housing requirements.
13. The development would make more effective use of land within the curtilage of an existing dwelling, in accordance with paragraph 119 of the Framework.

Planning Balance

14. The proposal is contrary to policies SP1, ENV1, HOU5 and HOU10 of the ALP. Consequently, it conflicts with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise.
15. The evidence indicates that the Council cannot currently demonstrate a five-year housing land supply, and that the available supply is 4.54 years. This is a minor but nonetheless significant shortfall. In this situation, paragraph 11 of the Framework indicates that development plan policies which are most important for determining the application may be out-of-date, and planning permission should be granted, except in the circumstances at paragraph 11(d)(i) and (ii). The site does not fall within the definition of areas or assets that are of particular importance as identified in footnote 7 of the Framework, and therefore these designations do not provide a clear reason for dismissing the appeal in accordance with paragraph 11(d)(i). Consequently, I will consider the appeal against paragraph 11(d)(ii).
16. I have found that the proposal would fail to conserve and enhance biodiversity, contrary to the relevant policies within the Framework.
17. As set out above, there would be some benefits associated with the proposal. However, the benefits arising from a single dwelling would be very modest and, therefore, they carry limited weight in my decision. The development would also protect the character and appearance of the local area and preserve the landscape buffer to the open countryside. The absence of conflict with Framework policies on these matters carries neutral weight.
18. Consequently, in the specific circumstances of the appeal proposal, the adverse impact arising from the effect on biodiversity would significantly and demonstrably outweigh the benefits of the development when assessed against the policies of the Framework, when taken as a whole.

Conclusion

19. The proposed development conflicts with the development plan when read as a whole. There are no material considerations before me, including the provisions of the Framework, that outweigh the harm I have identified. Therefore, for the reasons given, I conclude the appeal should be dismissed.

E Catcheside

INSPECTOR