



Appeal Decision

Site visit made on 24 October 2023

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2023

Appeal Ref: APP/A2280/W/22/3309886

The Lake, Land North of Lipwell Hill, High Halstow ME3 8SA

- 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 Miss Lisa Applegate against the decision of Medway Council.
 - The application Ref MC/22/1427, dated 7 June 2022, was refused by notice dated 15 August 2022.
 - The development proposed was originally described as “a new static home is to be provided, the mud pile is to be removed and 16 No. Solar Panels positioned in its space”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address given on the original application form was Buckhole Farm. However it appears that was an error and it was not used by the appellant on the appeal form. I have therefore used the address given on the Council’s decision notice.

Main Issues

3. The main issues are:
 - whether the development is in a suitable location with regard to its access to facilities;
 - the effect on flooding; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The development proposed is for a new static caravan to enable the appellant to live at the site and care for the wildlife there. The appeal site comprises a parcel of land which is at the end of a long winding access road. This leads from Lipwell Hill which is also a winding road, narrow and hilly in places, which provides a link to the nearest settlement of High Halstow. The site is in the countryside.
5. There are some basic facilities in High Halstow that would support day-to-day living. But the distance between the site and these, and the nature of the route to them, would not encourage sustainable modes of travel such as walking or cycling. Occupiers of the site would therefore be highly likely to rely on a car

for all their needs. As such, the proposal would conflict with policy BNE25 of the Medway Local Plan (adopted May 2003) which only allows for development in the countryside if it offers a realistic chance of access by a range of transport modes. It would also fail to accord with the guidance in paragraph 80 of the National Planning Policy Framework (the 'Framework') which says the development of isolated homes in the countryside should be avoided.

Flood risk

6. Flood mapping information shows the site and some of the access road to be in flood zone 3. The national Planning Practice Guidance (PPG) states that land in this zone has a high probability of flooding. It also sets out that highly vulnerable uses, such as caravans, should not be located in flood zone 3.
7. Moreover, the PPG and the Framework advise that proposals for development in flood zone 3 should be accompanied by a Flood Risk Assessment (FRA) and that it will be necessary to undertake a sequential test to demonstrate that the development could not be located in an area with a lower risk of flooding. No FRA or sequential test was provided, and although the appellant states the intention of the development is to provide accommodation from where she can care for wildlife on the site, it has not been demonstrated why the development as a whole could not be located in an area less susceptible to flooding or why it is necessary to live on the site and not in an area of lower flood risk away from the site.
8. As such, this development would be at a high risk of flooding and the provision of improved drainage would do little to address this matter. It would be contrary to Local Plan policy CF13 which states that development will not be permitted within a flood risk area where it introduces mobile homes or caravans. It would also be contrary to the PPG, as set out above, and the Framework which says that development should be directed away from areas at highest flood risk.

Character and appearance

9. The local area is overwhelmingly rural. The site is primarily grassed, contains a significant number of trees, and there is a large duck pond. To all four boundaries there is mature vegetation which, even in winter, would be likely to provide an effective visual screen to the proposed static caravan and duck runs such that any views of them from beyond the site, such as from the public footpaths to the north and west or from nearby private land, would be very limited. In addition, any views from public viewpoints would be at a considerable distance. Views would be partially possible from the access road, but this is a private road and the development would only be visible from that part of the road immediately outside the site.
10. As well as the provision of the duck runs and static caravan, the proposal also includes the laying of hardstanding at the access, a gas tank and solar panels. In addition, the use of the site for residential purposes could lead to an increase in residential paraphernalia, which would most likely be focussed around the caravans. Nonetheless, all these works would be concentrated in a small part of the site, along its side boundary, with the vast majority of the site retaining its rural character. This would reflect the character of the wider area. For example, at Buckhole Farm there are some small scattered buildings set amongst large undeveloped fields.

11. Overall, given the small scale of the works, the small proportion of the site that they would occupy, and the very limited visibility of them beyond the site boundaries, it is considered that they would not be incongruous in their context and would not harmfully affect the character and appearance of the area. As such the development, in this regard, would accord with Local Plan policies BNE25 and BNE1 which seek to ensure development maintains the character and visual amenity of its surroundings.
12. For the same reasons of being limited in scale and having very limited visibility beyond the site boundaries, the proposal would have no harmful effect on the open landscape of the North Kent Marshes Special Landscape Area. It would therefore comply with Local Plan policy BNE33 which aims to ensure development conserves the natural beauty of the area's landscape.

Other Matters

13. The site is within 6km of the Thames Estuary and Marshes Special Protection Area (SPA). It is possible that recreational impacts from the development, in combination with others projects, would be likely to have a significant effect on the integrity of this European designated site. However as I am dismissing the appeal for other reasons, there is no need for me to consider this issue further.
14. New planting would be provided and specific reference is made in the evidence to bee hives being introduced. Generally the appellant is aiming to attract new species of wildlife to the site. While this is admirable, it does not warrant the provision of a dwelling on the site.
15. The Council have stated they cannot demonstrate a 5-year housing supply and therefore the provision of an additional dwelling to add to the supply is beneficial. In such circumstances the Framework suggests that development should be approved unless the application of policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Areas of particular importance include areas at risk of flooding. In this appeal, the application of the Framework's flood risk policies provides a clear reason to refuse the development.

Conclusion

16. The development would not be suitably located in terms of its access to facilities and would introduce residential accommodation in an area at high risk of flooding. The benefits to biodiversity and housing supply do not outweigh these harms. The lack of harm to the character and appearance of the area weighs neither for nor against the development.
17. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan.
18. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

A Owen

INSPECTOR