



Appeal Decision

Site visit made on 16 November 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2023

Appeal Ref: APP/E2205/W/22/3310604

Workshops at Lodge Farm, Bowl Road, Charing, Kent TN27 0HB

- 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Joseph Mount against Ashford Borough Council.
 - The application Ref PA/2022/2065 is dated 9 July 2022.
 - The application sought planning permission for the change of use of existing light industrial unit into guest accommodation ancillary to Lodge Farm without complying with a condition attached to planning permission Ref 15/01636/AS, dated 17 February 2016.
 - The condition in dispute is No 3 which states that: *The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Lodge Farm.*
 - The reason given for the condition is: *To prevent the formation of a separate dwelling in this rural location.*
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. Planning permission was originally granted for the works outlined above, which has since been implemented.
3. The dispute is in respect of condition 3, which restricts the occupation of the converted workshop as ancillary to the main dwelling (Lodge Farm). The effect of the condition was to prevent the former workshop being used as a separate residential entity to Lodge Farm. The appellant wishes to remove this condition.
4. Planning Practice Guidance (PPG) sets out that an appeal under Section 73 of the 1990 Act will consider only the disputed condition(s). I have approached the appeal on that basis.

Main Issue

5. The main issue is whether adherence with condition 3 is necessary, having regard to the location of the dwelling relevant to services and facilities and the character and appearance of the area.

Reasons

6. The appeal site comprises a parcel of land to the south of Bowl Road. It includes a dwelling known as Lodge Farm and the separate former workshop

building, now converted to habitable accommodation. A large expanse of open grassland exists to the rear of the site.

7. The removal of condition 3 would allow the former workshop building to form a separate residential dwelling. I have limited information before me to explain the reasons for the original consent, or whether any circumstances have changed since that time.
8. A series of other residential properties exist in the immediately surrounding area, typically along Bowl Road. In that context the site cannot reasonably be described as 'isolated' within the terms of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, the appeal site undisputedly falls outside of the settlement boundary (or built-up confines) of Charing.
9. The Council's putative reasons for refusal, within its appeal statement, set out that the proposed dwelling would be located outside the built-up confines of Charing and would not lie within easy walking distance of basic day-to-day services, giving rise to an unsustainable form of development.
10. I agree that the nearest settlement to the site is Charing, which provides some key services including a surgery, library, public house and local shops. I also accept that the distance between the appeal site and Charing is similar to that of Lodge Farm and other nearby properties, at approximately 800-1000 metres according to the appellant, although some of the services within the village would be located further than this.
11. To reach Charing by foot or bicycle, individuals would need to proceed, in part, alongside Bowl Road, which is narrow and does not have a dedicated footway or street lighting. This route would be particularly undesirable in winter months, after dusk or during inclement weather conditions. I also acknowledge that there are public rights of way in the area, including from the application site, which could be used to reach Charing's services and facilities, and that this would provide a shorter route than the road network. However, these routes are not sufficient to rely on, particularly as they are unlit and of an uneven terrain. Moreover, there are no bus stops near to the site that provide direct access to Charing.
12. Although I note that the supporting text to Policy HOU5 of the Ashford Local Plan 2030 (LP, adopted 2019) states that 800 metres forms a 'generally accepted easy walking distance' in respect of services and facilities, this is caveated by stating that 'the specific local context may mean a higher or lower distance would be a more appropriate guide'. I consider this to be relevant in this instance for the reasons given above. Moreover, 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 dwelling would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory cycling and walking routes and a lack of public transport facilities within a reasonable distance of the site.
13. My attention is drawn to an approved scheme at The Apple Trees. The appellant sets out that the scheme is located 1.5km away from the centre of Charing and that whilst it is possible to walk to Charing from that site, along a lit pavement, the hill is steep, making access more difficult for some people.

Moreover, it is pointed out that there is no bus service there, concluding that the occupiers of that scheme would inevitably need to rely on private vehicles for access to day-to-day services and facilities. Nevertheless, I have limited details before me that enable me to draw any direct comparisons between that scheme and the appeal proposal before me, including its planning context and historic site circumstances. In any case, the existence of that other scheme does not mean that other future schemes should automatically be found acceptable where harm has been identified. Reference is made to other unnamed schemes within Charing, however I have no details of those before me. These matters do not overcome or outweigh the harm identified.

14. The Council, within its officer report, makes reference to the effect of the dwelling on the rural character and appearance of the surrounding area. However, the dwelling already exists, and I am not of the view that there would be any significant visual change, or impact on the rural character of the surrounding area, as a result of the proposal. Nevertheless, this does not overcome or outweigh the harm identified.
15. 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 LP Policies SP1, HOU5 and ENV3a. These policies, in summary when taken as a whole, seek to ensure development is located in accessible and sustainable locations, that has regard for the pattern and distribution of settlements. This is in a similar vein to the objectives of paragraph 104 of the Framework insofar as it relates to sustainable development.
16. Policy H15 of the Charing Neighbourhood Plan was referenced by the Council, in a similar vein to the objectives of the above policies. However, I do not have details of the status of this document and therefore afford it only limited weight in making my decision.

Other Matters

17. The Council cannot currently demonstrate a 5-year housing land supply. I acknowledge that the proposed development would result in the delivery of a new dwelling in the Borough, on a windfall site, with positive social and economic benefits. Nevertheless, these benefits would be limited by reason of the scale and nature of the development and do not outweigh the harm that I have identified above.
18. In respect of the reason for refusal relating to the Stour River Catchment and Stodmarsh Lakes designated site, I note the appellant's comments, including in respect of sewerage treatment plans. However, Habitats Regulation 63(1) states that a competent authority, before deciding to give consent or permission must make an appropriate assessment of the implications of the plan or project for that site. Given my reasoning in respect of the main issue and that the appeal is dismissed, there is therefore no requirement upon me in that regard. Even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.
19. The appellant sets out that the scheme would meet some other planning policy objectives including in respect of internal space standards, private amenity space, vehicle and cycle parking and sustainable drainage. I also note the appellant's argument that the previously approved scheme at the site has been built in accordance with permissions. However, these are not matters in dispute

between the Council and appellant and do not weigh in favour of allowing the appeal.

20. I acknowledge the appellant's frustration in not receiving a decision from the Council and in respect of communications generally. Nevertheless, I have considered the scheme on its individual planning merits, based on the evidence before me, and this has not resulted in an alternative conclusion on the main issue.

Conclusion

21. For the reasons above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed and planning permission refused. The disputed condition should therefore remain.

A Price

INSPECTOR