



Appeal Decision

Site visit made on 10 January 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/A2280/W/23/3318618

5 Bellwood Court, St. Mary Hoo, Medway, Rochester ME3 8RT

- 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 and Mrs Krefta against the decision of Medway Council.
 - The application Ref MC/22/2934, dated 13 December 2022, was refused by notice dated 13 February 2023.
 - The development proposed is a single self-build detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published by the Government in December 2023, after the determination of the planning application. It does not raise any new considerations in relation to this appeal.
3. Subsequent to the planning application being determined, two unilateral undertakings were submitted by the appellant. One seeks to provide a contribution towards strategic mitigation of the Thames Estuary and Marshes and the Medway Estuary Special Protection Areas. The other seeks to address the self-build nature of the proposal. I address both these matters below.

Main Issues

4. The main issues are a) whether or not the site is suitable for a residential development having regard to local and national planning policy for the location of housing; b) the effect of the proposed development on the character and appearance of the area.

Reasons

Location

5. The appeal site does not have the appearance of open countryside, but it is outside of any settlement boundary. Saved Policy BNE25 of the Medway Local Plan 2003 (MLP) clarifies that land outside urban and rural settlement boundaries is defined as the countryside.
6. This policy only allows for development outside settlements if it maintains or enhances the character, amenity and functioning of the countryside, offers a realistic chance of access by a range of transport modes and meets at least one of six further criteria. It is the issue of accessibility by different modes of transport which is of principal concern to the Council.

7. With regard to accessibility, the immediate vicinity of the appeal site contains only very limited services and facilities. The Fenn Bell Inn is a public house a short walk to the north of the appeal site. There is a shop serving the nearby Gulf petrol station. Whilst the Appellant describes this shop as being 'just around the corner', from my site visit I estimate it to be a round trip of somewhere in the region of 1.5km from the appeal site. Whilst it is walkable and cyclable from the appeal site, most of the route is along the A228 and the shop itself would only be able to offer a limited range of provisions. Therefore, it is likely to be accessed on foot or by cycle only on a very occasional basis.
8. The village of Hoo St Werburgh is said to be accessible on foot and by cycle. However, by my estimation following my site visit, the village centre is over 3km away from the appeal site, with much of the route being unlit. Even if residents made use of the facilities in Hoo St Werburgh and walked or cycled to them from time to time, it is likely that they would usually find it more convenient to access the village by car. The appellant suggests that there are multiple employers within the local area which could be reached by cycling. However, there is nothing to indicate that such routes would be any more attractive to cyclists or walkers than the route to Hoo St Werburgh.
9. The appeal site is within walking distance of a bus stop from which Hoo St Werburgh is said to be accessible, as well as the villages of High Halstow and Stoke. However, I have no information as to the frequency of services or the extent to which they would provide access to not just these villages but facilities serving a range of employment, education, health and leisure needs. Thus, whilst there may be some opportunities to use public transport there is no substantive evidence before me to suggest that it is likely to provide a realistic alternative to the car for most journeys.
10. I therefore find that while some day-to-day needs could be met other than by using a car, the distances involved suggest that very few people would take this opportunity, and only then in limited circumstances. The practical reality is that if future occupants owned a car, they would be highly likely to rely on it as the most convenient means of carrying out their day-to-day activities. The proposal would not promote sustainable transport.
11. Paragraph 83 (formerly paragraph 79) of the Framework requires planning policies, amongst other things, to identify opportunities for villages to grow and thrive. Policy BNE25, together with other policies in the MLP, might be more restrictive than the Framework in terms of what development can occur outside of settlements. However, they are broadly consistent with the objective of seeking to locate housing where it will enhance or maintain the vitality of rural communities. There is little to suggest that the proposed dwelling would materially benefit the vitality and viability of other nearby rural communities in terms of supporting their local services.
12. Paragraph 84 (formerly paragraph 80) of the Framework states that isolated homes in the countryside should be avoided unless one of five specific circumstances applies. The appellant does not contend that any of these circumstances apply but rather that the proposed dwelling would not be isolated.
13. According to the Court of Appeal in *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610 an isolated home in the countryside simply connotes a dwelling that is physically separate or remote

from a settlement. However, the Framework does not specifically refer to settlement boundaries and so whether a site is isolated is dependent on the site-specific circumstances and is a matter of planning judgement.

14. Bellwood Court is a small cul-du-sac of existing dwellings. The Fenn Bell Inn and its associated zoo, together with some commercial buildings are sited immediately to the north of Bellwood Court. To their west is a small ribbon of houses on Fenn Street. Collectively they appear as a sporadic cluster of buildings. They do not comprise the characteristics or display features (other than the buildings themselves) which might be expected within a small settlement.
15. However, even if I were to conclude that this small grouping could be considered a settlement, the Framework does not suggest that a dwelling must be 'isolated' for restrictive policies to apply, nor that defining settlement boundaries is not a suitable policy for directing development towards more appropriate locations.
16. Therefore, taking all of the above into consideration, I conclude on this main issue that the appeal site is not in a location that offers a realistic chance of access to services and facilities by a range of transport modes. In this respect, the proposal would be contrary to Policy BNE25 of the MLP.
17. It would also fail to accord with the Framework which, having regard to its requirements and sustainable objectives, would not identify the appeal site as being a suitable location for additional new housing.

Character and Appearance

18. The appeal site currently forms part of the garden to No. 5 Bellwood Court, a detached dwelling set on a large plot. Bellwood Court is characterised by similarly large, detached dwellings. The building lines and styles vary but the houses are typically set back from their front boundaries and being within large plots the generous spacing around them is appreciable. This results in a loose knit pattern with landscaping around buildings, including boundary planting, which in many cases helps to screen the buildings. In combination, these factors confer a distinctive sense of spaciousness and give the area an attractive and verdant character.
19. Notwithstanding the contemporary design of the proposed dwelling and use of brickwork and timber, it is apparent that the plot to serve it would be much smaller than is usual within Bellwood Court, with the dwelling smaller still. Consequently, the gaps between the dwelling and its site boundaries would be noticeably slight and its proximity to No. 5 in particular would be in marked contrast to the generous separation currently found between buildings along Bellwood Court.
20. As a result of this uncharacteristically close relationship there would be relatively little visual relief between the buildings. While access and parking provision to the front of the proposed development might not be significantly more extensive than to other sites nearby, these features would nevertheless further increase the apparent coverage by built form. Cumulatively there would be a greater concentration and more intense form of development overall which I find would be excessive and strikingly at odds with the distinctive spacious and verdant character of Bellwood Court, causing harm.

21. I accept that the development would be no more visible than others in the street and that visual impacts would be localised and transitory, but the location of the site means that any passing vehicles would be likely to be travelling fairly slowly. It is also clear from my visit that Bellwood Court is a public footpath and views from any pedestrians would be more than fleeting. I do not consider that additional boundary planting would offset or mitigate the greater loss of spaciousness and the unsympathetic nature of the appeal development overall.
22. For all of these reasons, I conclude that the proposal would cause harm to the character and appearance of the area contrary to Policies BNE1, BNE25 and H11 of the MLP which broadly seek high quality development that makes efficient use of land while respecting local context, and which complements and contributes positively to local character.
23. The proposal would also be contrary to provisions within the Framework which include requirements that development should add to the overall quality of the area and be sympathetic to local character.

Other Matters

24. The appeal site lies within the Zone of Influence of the Thames Estuary and Marshes and the Medway Estuary and Marshes Special Protection Areas (SPA). The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
25. While the effects of the development alone on the SPA would be limited, additional recreational visitors to the protected areas would be likely to have significant effects when considered in combination with other proposals. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out mitigation measures funded by financial contributions at a costed tariff. Natural England, as the Statutory Nature Conservation Body, appears to have endorsed the SAMMS.
26. The appellant has provided an executed Unilateral Undertaking (UU) which would secure a contribution towards the implementation of the SAMMS. Although the Council has some small concerns over the drafting of the UU, I am satisfied that, if necessary, these could be resolved without much difficulty. As such, the Council's concerns regarding the integrity of the SPA would be overcome. I have further regard to this matter later in my decision.
27. The proposal would result in the loss of some lower grade trees to which the Council does not object. Furthermore, there would be no adverse impact on the highway and the use of obscure glazing to side windows could protect the living conditions of neighbouring occupiers. However, whilst none of these issues raise concerns in themselves, they similarly do not alter the harm I have identified above. As such, they would be neutral in any balance.
28. Whilst there are no specific environmental or heritage designations on the site, this does not mean that no harm will arise as a result of the site's development. The absence of designations may reduce the potential obstacles to a site's development but does not, of itself, weigh in favour of the scheme.

Planning Balance

29. There is no dispute amongst the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing land. Accordingly, Paragraph 11(d)(ii) of the Framework is engaged. As such, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
30. The Government's objective is to significantly boost the supply of housing, including through windfall sites such as this one. Despite the proposal being small scale, it would be a positive addition to the supply of homes in the area. Furthermore, the Council has not disagreed with the contention that there is a shortfall in the delivery of custom and self-build housing in the area. The appellants have submitted a UU to secure the self-build nature of the dwelling. The Council has also raised some minor concerns with the drafting of this document too. However, I am satisfied that, if necessary, any amendments could be achieved to the UU prior to a final decision being issued. As such, I make my decision on the basis that the dwelling before me could be suitably and reasonably secured as forming such housing into the future.
31. It is said that the new dwelling would incorporate a range of sustainable technologies to reduce carbon footprint. Although such measures are becoming more common, they nevertheless can be given a small amount of positive weight.
32. The scheme would also lead to some time-limited, economic benefit during the construction phase, which may give rise to extra local employment. There could also be longer term economic support to the area, once the unit was occupied, such as through additional Council Tax, which in turn may also give rise to some social benefits. However, given the scale of the development I attribute only very limited weight to these economic and social benefits in support of the scheme.
33. Overall, within the above context, the provision of this additional self-build house attracts considerable positive weight.
34. Conversely, the site is not within a location where residential development is encouraged by the Framework. Whilst the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I do not consider that this provides justification for new development in a location which has poor access to services and facilities other than by private car. Furthermore, the proposal would cause unacceptable harm to the character and appearance of the area. The harm would be localised but would conflict with policies within the Framework that seek to ensure high quality design and development is sympathetic to local character and context.
35. The harms I have identified are perennial and in direct compliance with the Framework. Cumulatively, they would be noticeable and long lasting. As a consequence, they are worthy of substantial weight. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not therefore be sustainable development.

36. If I had come to a different conclusion, it would have been necessary for me to undertake an AA and give further consideration to the likely effectiveness of mitigation measures associated with the Thames Estuary and Marshes and the Medway Estuary and Marshes SPA. In so doing I would also have had regard to the provisions of the UU as I would have to be certain that the integrity of the protected sites would not be adversely affected. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

37. Whilst there would be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.

38. Therefore, I conclude that this appeal should not succeed.

Stewart Glassar

INSPECTOR