



Appeal Decision

Site visit made on 1 February 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/A2280/W/23/3323010

**Land on west side of Newlands Farm Road, St Marys Hoo, Rochester
ME3 8QT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs S Brimicombe against the decision of Medway Council.
 - The application Ref is MC/23/0568.
 - The development proposed is outline application for four self build/custom home build plots.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. No reason for refusal was included on the Council's decision notice. An amended decision was issued on the same day which contained the reason on which the Council now relies. The Council's officer report clearly sets out the concerns with the proposal and the reason for refusal. I therefore consider there has been no prejudice to the appellant.
3. The appeal is submitted in outline with all matters reserved for future consideration. Notwithstanding access is a reserved matter, it would be taken from Newlands Farm Road as the site location plan shows only one location for connection to the highway.
4. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. On the same day, updated Housing Delivery Test (HDT) results were also published. These showed that delivery had improved from 67% in the 2021 results to 79% in 2022, making the Council now a 'buffer' authority. The main parties were given the opportunity to make further comments on the implications of this for this appeal.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The site is a fenced paddock. It is bounded by a stable block, wooded area and surrounding agricultural fields. There is residential development beyond the wooded area which fronts onto Fenn Street. There are other commercial and employment developments along Ratcliffe Highway.

7. The site has a clearly rural character and appearance. This is reinforced by the surrounding expansive agricultural landscape and the single width Newlands Farm Road. Despite its short distance from Fenn Road and its adjacent development, the site is separate and distinct from those busier areas. It lies within an Area of Local Landscape Importance (ALLI).
8. Development of the site would have an urbanising effect. It would be an incongruous feature in the rural landscape, not well related to the surrounding pattern of development which tends to follow main roads. Furthermore, and while I note the submitted plans are indicative, they show the form of the proposed development as suburban in nature. Given the shape of the site and proposed quantum of development, I cannot be satisfied that the site could be developed in a manner which would not be suburban in appearance. This is specifically identified as a concern in the Landscape Character Assessment for the Hoo Peninsula.
9. It is therefore unlikely that the proposed development could be designed and landscaped in such a way that it would not harm the surrounding landscape character and function. There may be other areas within the wider landscape area with more enclosed characters and different land uses. However, that is not the case here where the site is part of an open landscape.
10. The appellant has referred to other development which has been landscaped. While landscaping falls to be considered at the reserved matters stage, the purpose of landscaping is to integrate development into its environment. It is not to hide development that would otherwise be unacceptable. Given the open, expansive rural landscape, I am not satisfied that landscaping would address the harms that would arise from the urbanisation of the site. The identified weaknesses of the landscaping structure could be addressed without the proposed development.
11. There would be an economic and social benefit from the delivery of additional dwellings, particularly given that the Council cannot demonstrate a five year supply of housing land. The appellant has identified the dwellings could be self-build. The Planning Practice Guidance¹ identifies additional benefits from self-build house building in diversifying the housing market and increasing consumer choice. The parties are not in dispute that there is a clear demand for self-build plots. However, the Council's officer report is clear that this would have to be secured via a planning obligation. There is no mechanism before me to ensure that the proposed dwellings would be constructed as self-build.
12. The proposed dwellings would provide additional support to the surrounding public transport network and the shop at the garage. However, these benefits would be limited given the small scale of the development. There would be economic benefits during the construction period, including the support to local employment, and during the occupation stage from the additional spending by future occupiers. However, these benefits would be limited given the proposal is for four dwellings. As such, they would not be so important as to outweigh the local priority to conserve the area's landscape.
13. The proposed development would have an adverse effect on the character and appearance of the area. It would therefore be contrary to Medway Local Plan

¹ Self-build and custom housebuilding Paragraph: 16a Reference ID: 57-016a-20210208 Revision date: 08 02 2021

(2003) (LP) Policies BNE25 and BNE34 which, taken together and insofar as they relate to this appeal, require development to maintain the character of the countryside and only allow development within the ALLI where the economic and social benefits would be so important that they would outweigh the local priority to conserve the area's landscape. It would also be contrary to paragraph 180 of the Framework which seeks to protect valued landscapes.

Other Matters

14. The appeal site is within 6km of the North Kent Marshes Special Protection Area and Ramsar site which is subject to pressures from recreational disturbance. The appellant has paid a contribution towards mitigation. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the habitats site and if any mitigation had been appropriately secured. However, it has not been necessary for me to pursue this issue as a finding that the proposal would not have an adverse effect on the integrity of the habitats sites, with or without any mitigation, would be at best a neutral matter.
15. Specific reference has been made to a development on Fenn Street² and a development for four self-build properties adjacent to the appeal site³. While I have been provided with details of where the second site is, I have not been provided with full details of how either proposal was assessed by the Council, including the matters secured by the legal agreement in relation to the second site.
16. It is suggested that this decision relied on an appeal decision⁴ elsewhere. I have not been provided with a copy of this decision, although the appellant has quoted from it. However, I have reached a conclusion of the effect of this development based on my assessment of this site and its relationship with the surrounding area. This is unlikely to be identical to the circumstances of another site.
17. Both parties have referred to other decisions in the surrounding area. The appellant has quoted extensively from officer reports into other developments. I do not have full details of those proposed developments. However, it is clear from these quotes that there were site and proposal specific considerations which informed all of those decisions. It is not reasonable for me to assume that the findings in relation to another site 600m as the crow flies would allow the same conclusion to be reached for this site with regard to access to services and facilities. Some of these related to employment development which would be assessed against policies which would not apply to the residential proposal before me and so are materially different. I also cannot be certain of the development plan in force at the time for some.
18. There are employment uses within the wider Hoo peninsula and it may be that workers travel some distance to reach these. However there is no guarantee future occupiers of the proposed dwellings would be employed in these locations. It may be that the Council are planning for significant growth around Hoo and consequent improvements to the public transport network including a

² MC/19/1044

³ MC/22/1317

⁴ APP/A2280/W/21/3266477

new railway station at Sharmal Street. However, there is no detail before me as to when this would be delivered. These facts would not outweigh the harms I have identified as arising from the proposed development.

19. There would not be a loss of agricultural land as the site is in equestrian use. There is no substantive evidence before me as to why it would be necessary for the appellant to live on site to tend to their horses beyond their own personal circumstances.
20. The final scheme could be designed in such a way as to deliver biodiversity benefits. There would also be the economic and social benefits I have identified above. However these would be limited given the small scale of the proposed development.

Planning Balance

21. It is not in dispute that the Council cannot demonstrate a five year supply of deliverable housing land, although the supply has not been quantified, nor has any means of addressing this been set out. Paragraph 11(d)(i) sets out circumstances in which the policies of the Framework would provide a clear reason for refusing the development proposed. Where this would not apply, paragraph 11(d)(ii) of the Framework confirms that in such circumstances, 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.
22. The Framework is clear that the Government has an objective of significantly boosting the supply of homes and highlights in paragraph 70 the important contribution that small and medium sized sites can make to the housing requirement of an area. There would be social benefits from the contribution of the site to the supply of dwellings, and these could be delivered in the short term. Furthermore, there would be economic benefits during the construction stage and expenditure by future occupiers of the dwellings. Additionally, there would be some support for surrounding services such as the public house, shop and public transport. The appellant has also identified that biodiversity net gain could be delivered. These benefits would be limited given the proposal is for four dwellings.
23. However, paragraph 180 of the Framework requires development to contribute to and enhance the natural environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. Paragraph 135 requires development to add to the overall quality of the area and be sympathetic to local character. For the reasons given above, the proposed development would not achieve these and these harms would be significant.
24. Even if I were to have found that the policies of the Framework would not provide a clear reason for refusing the development following an Appropriate Assessment, I find that the adverse impacts relating to the main issue would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

25. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the policies of the Framework, to indicate the decision should be made otherwise. For the reasons given and having regard to all matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR