
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: 4 March 2024

Appeal Ref: APP/A2280/W/23/3318596

1 Gibraltar Cottages, Ham Lane, Hempstead, Gillingham, Medway ME7 3JJ

- 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 Mr Sean Farley against the decision of Medway Council.
 - The application Ref is MC/22/2192.
 - The development proposed is the construction of a detached dwelling to the south east side of 1 Gibraltar Cottages, including enabling work to the south east side of the existing dwelling to remove side aspect windows and door with a two storey extension providing front and rear aspect windows and doors
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. I have used the description of development from the appeal form and the Council's decision notice as it more accurately describes the development proposed. I have removed extraneous wording that does not describe the act of development. The appeal is made in outline with all matters reserved. I have therefore treated the submitted plans as indicative only. Notwithstanding, access to the site would be taken from Ham Lane.

Main Issue

4. The main issue is whether the site is a suitable location for the proposed development with respect to the strategy for development in the countryside and the effect on the character and appearance of the area.

Reasons

5. It has not been disputed that the site lies outside the built confines of a village/rural settlement. There is surrounding development a short distance from the site, albeit not all accessed from Ham Lane. Consequently, the proposed dwelling would not be isolated for the purposes of paragraph 84 of the Framework. Ham Lane is a single width carriageway. It is unlit and has no footpath. Future occupiers would likely have a high degree of reliance on the

- private car to access services and facilities and there would not be a realistic choice of access by a range of transport modes.
6. There is no substantive evidence before me of the original plot width of No 1 and I have assessed the proposal as the site appeared at my site visit. The existing dwellings are set on reasonably sized plots which provide space to the side of the dwelling as well as the long gardens to the rear. As a result, the existing dwellings appear well sited on plots commensurate with their size and appropriate in a rural landscape.
 7. While the submitted drawings are indicative, they do show it would be likely that the proposed development would result in there only being a small gap between an extended No1 and the proposed dwelling. The proposed dwelling would likely occupy much of the width of its plot. Consequently, both dwellings would appear cramped, particularly when viewed against what would appear as the more expansive plot at the attached neighbour. Groupings of farm cottages exist in a range of sizes. However, in this case, the proposed development would appear as a poorly related addition to the existing semi-detached dwellings due to the likely resultant plot widths. This would be incongruous, and that harm exacerbated given the location of the site within an expansive landscape.
 8. The site has an agricultural setting, with fields forming its surrounds. There would not be a loss in its open character from the development of a single dwelling in proximity to existing dwellings. However, this would not overcome the harms I have identified above that would arise from the proposed development.
 9. The appellant has referred to planning permission for 450 dwellings in the surrounding area¹ however, I do not have any substantive evidence to show me this permission remains extant. I have also been provided with extracts from the Medway Land Availability Assessment 2023. The fact the sites can proceed to the next stage of assessment does not provide any certainty as to how the sites would progress through the development plan process.
 10. The extracts also refer to the proposed Lidsing Garden Village. This lies within the administrative area of another authority and I have not been provided with any substantive evidence as to the current status of that plan. Consequently, I cannot be certain that any of these would result in a change to the surrounding land.
 11. For the reasons given above, the proposed development would therefore not be a suitable location for the proposed development with respect to the strategy for development in the countryside and the effect on the character and appearance of the area. It would therefore be contrary to Medway Local Plan (May 2003) Policy BNE25 which sets criteria for when development would be acceptable in the countryside. It would also be contrary to the advice in paragraphs 131 and 135 of the Framework which confirm that the creation of high quality buildings is fundamental to what the planning process should achieve and that development should add to the overall quality of the area.

¹ MC/18/0556

Other Matters

12. 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 site, with or without any mitigation, would be at best a neutral matter.
13. Living conditions of future occupiers of the proposed dwelling and the effect on occupiers of the existing dwellings would be assessed at the reserved matters stage. However, there is no reason in principle that an acceptable solution could not be designed. The appearance of the proposed dwelling would also fall to be considered at the reserved matters stage, however I have no reason to think a suitable design could be secured, having regard to the appearance of the adjacent properties. Issues regarding water and electricity supply would be addressed through other legislation.
14. The appellant has advised me of another application submitted and refused on the site. However, that is not the proposal before me and I have assessed this appeal on its planning merits.

Planning Balance

15. It is not in dispute that the Council cannot demonstrate a five year supply of 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.
16. 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 this 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. However, these benefits would be limited given the proposal is only for one dwelling and an extension.
17. However, paragraph 131 of the Framework is clear that the creation of high quality, beautiful, sustainable buildings and places is fundamental to what the planning and development process should arrive. Paragraph 135 requires development to add to the overall quality of the area. I have found that, notwithstanding it is in outline, the proposed development would not achieve this. This harm would be significant.

18. 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

19. 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 suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR