



Appeal Decision

Site visit made on 13 May 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2024

Appeal Ref: APP/E2205/W/23/3330770
The Haven, Kiln Lane, Bethersden TN26 3BA

- 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 Mark & Mrs Trina Mealham against the decision of Ashford Borough Council.
 - The application Ref PA/2023/0278
 - The development proposed is for the erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity, I have used the description of development given on the Council's decision notice.
3. The appellants have brought to my attention a number of appeal decisions¹ in support of their case. However, as I have limited details of those cases before me, which in any event are either larger in scale, a different type of dwelling or in another location altogether, I have considered the proposal on its own planning merits.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area,
 - whether the proposal is in a suitable location; and,
 - if any harm is found from the above, whether the proposed occupier's personal circumstances or other matters outweigh that harm in the planning balance.

Reasons

Character and appearance

5. The appeal site is located outside a recognised settlement boundary and forms part of the Bethersden mixed landscape character area, which is typified by small fields, hedged lanes and roads, ponds and scattered woodland.

¹ APP/Y1138/W/23/3316553, APP/E2205/W/22/3302116, APP/E2205/W/21/3289039 and APP/E2205/W/21/3284479

6. The nearby built environment along Ashford Road is characterised by a mix of traditional Kentish and older style properties facing the highway that are set on generous garden plots. At the junction with Ashford Road, Kiln Lane is further characterised by a limited number of more contemporary, single storey dwellings, including 'The Haven' (the host dwelling). The appeal site is a tree and hedge-lined parcel of hard-surfaced land adjacent to a pasture type field which is found to one side of the host dwelling that is used for the storage of caravan and motorhomes.
7. The proposed 3-bedroom development for the appeal site would be similar in appearance to the host dwelling. However, it would be a building of some scale and mass where currently there is none. Moreover, the dwelling would be partly seen from the rear and gardens of some of the properties on this part of Ashford Road. The lightly coloured proposal would also be glimpsed from Kiln Lane at times of the year when leaf coverage is less dense.
8. Furthermore, there is substantial scope for the introduction of a range of domestic features associated with the proposed development that could be seen from the nearby dwellings. For example, but not limited to, seating and patio areas, barbeques, washing lines and sheds.
9. Therefore, I conclude that, in this specific location, the bulky proposal and its accompanying domestic paraphernalia would erode the soft transition to the adjacent pasture and the wider countryside beyond. This would result in harm to the character and appearance of the area.
10. Accordingly, the proposal would be contrary to Policies SP1, SP2, SP6, ENV3a and HOU5 of the Ashford Local Plan, 2019 (ALP) which say, amongst other things, that development should be of high-quality design and sit sympathetically in the wider landscape.
11. For similar reasons, the proposal would not meet the aims of Paragraph 135 (c) of the Framework, which requires that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment.

Suitable location

12. The appeal site is approximately 1.5km from the settlement of Bethersden where a limited number of day-to-day services can be found, such as a school and a post office. More comprehensive services, for example, supermarkets, secondary schools, leisure facilities and a railway station can be found further afield in the town of Ashford.
13. The proposed development would be accessed via the junction with the well-used, hedge-lined and unlit Ashford Road which does not appear to have footways running in either direction or bus stops nearby. Therefore, whether the number of motor vehicle journeys from the new development would be relatively modest, or similar in volume to the use of the permitted annex² or not, given the limited public transport options nearby, it is likely that the day-to-day services of Bethersden or Ashford would be accessed by a private motor vehicle. This is very likely to be the case during darker times of the year or periods of inclement weather, when journeys by car to Bethersden would be more attractive than walking or cycling.

² 22/01000/AS

14. Consequently, the nature of the road and footways and the limited availability of public transport in this location would inevitably result in a dependency on private motor vehicles by the future occupiers of the proposed development.
15. Therefore, given my findings above, I conclude that the proposal would not meet the requirements of Policy HOU5 of the ALP and the Framework when read as a whole.

Personal circumstances and planning balance

16. In my assessment of this aspect of the appeal I am mindful of the Public Sector Equality Duty (PSED) arising from section 149 of the Equalities Act 2010 (the Act). The Act requires me to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Amongst other things, for the purposes of the Act protected characteristics include physical impairments. Consequently, given the submitted medical evidence, I am satisfied that the proposed occupier of the dwelling has protected characteristics for the purposes of the PSED. It does not follow from the PSED that the appeal should succeed. However, I am required to have due regard to the duty in arriving at my decision.
17. As such, I am in no doubt that the ongoing care of the proposed occupier is likely to be very challenging and that the family are not likely to be speculative developers. Moreover, it is contended in the submitted evidence that a three-bedroom dwelling is needed to accommodate both himself and his parents or a long-term carer in order that the whole family would be better able to meet his day-to-day care and any potential medical emergencies that might arise. Indeed, the parents of the proposed occupier have said that they are intending to give up their business to care for him full time. This would be likely to minimise the family's reliance on local health and social care facilities.
18. That said, from the evidence before me, I cannot be certain of the proposed occupier's existing domestic circumstances. Indeed, although the appellants contend that the size and design of the annex associated with the host dwelling would be insufficient to accommodate the range of equipment needed to care for the proposed occupier, I have no substantiated evidence before me as to whether this is the case, or if there is a lack of other suitably sized, level-access accommodation available to the proposed occupier in the nearby area or not.
19. Consequently, given the limited evidence before me, the personal circumstances of the proposed occupier attracts no more than moderate weight in favour of the appeal scheme.
20. The Council cannot demonstrate a five-year housing land supply, as such Paragraph 11 (d) of the Framework is engaged. Therefore, the economic, social and environmental benefits must also be weighed against the adverse impacts of the proposal.
21. The economic benefits of the proposal include the provision of one new self-build dwelling attracting a New Homes Bonus on a smaller windfall type site, thereby contributing to the Council's Housing Land Supply and national targets for self-build homes. I afford this benefit some moderate weight.

22. The Council do not object to the loss of an existing employment site and there would be new employment opportunities connected to the construction of the dwelling. There would also be patronage of local shops and services by the new residents. I afford these economic and social benefits limited weight, particularly as the employment opportunities are likely to be short-term and the patronage small-scale.
23. There would be new landscaping, additional tree planting, other biodiversity gains and reduced vehicular noise and activity associated with the hard-surfaced site. However, I give minimal weight to the environmental benefits of the proposal as the development is limited in extent.
24. Drawing these matters together, even in combination, the personal circumstances of the proposed occupier and the other matters above do not outweigh the substantial harm the appeal scheme would cause to the character and appearance of the area, or the suitability of its location in relation to its ALP conflicts.

Other Matters

25. I note the 'fallback' position to create a two-bedroom annex ancillary to the host dwelling that could have the same type of occupancy, domestic activity and use as the proposal before me. However, the annex would form part of the existing appearance of the main dwelling, while the proposal is for a full planning permission for a separate 3-bedroom dwelling house which is a different type of development to the annex altogether on an undeveloped parcel of land.
26. The appellants have provided a 'Unilateral Undertaking' that would revoke the extant planning permission for the annex and restrict the overall number of dwellings on the host site in favour of the proposal. However, whether the appellants choose to invoke the permission or not, given my findings above, I have not given the matter further consideration in respect of this appeal.

Conclusions

27. The public benefits advanced in favour of the case, and the other matters outlined above, whilst material, are not of a sufficient weight to justify a decision not in accordance with the development plan, with which the appeal scheme clearly conflicts. Accordingly, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR