



Appeal Decision

Site visit made on 22 May 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/X2220/W/23/3331612

Hardacre Farm, Mill Lane, Preston, Kent CT3 1HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Dr Martin Ferber against the decision of Dover District Council.
 - The application Ref is DOV/22/01445.
 - The development proposed is the erection of a detached single storey self-build dwelling and detached garage/carport with associated access, following demolition of existing barn/store building.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Draft Dover District Local Plan (DDDLP) is being examined. Following the Inspectors' initial advisory letter, consultation on the Main Modifications commenced on 11 April 2024. Whilst the process is not yet complete, there is a high probability that policies will eventually be adopted as originally worded or as proposed to be modified. Therefore, having regard to paragraph 48 of the National Planning Policy Framework, they can generally be given a considerable amount of weight.

Main Issue

3. The main issue is whether the site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing; and the character and appearance of the area.

Reasons

Location

4. The appeal site comprises an area of open residential garden land that forms part of Hardacre Farm. It lies outside the settlement boundary of Preston and in policy terms would be within the countryside.
5. Policies CP1 and DM1 of the Dover District Core Strategy 2010 (DDCS) seek to establish a spatial strategy for the district by focusing development towards settlements, with the scale of development dictated by their size and facilities. Preston is identified as a village, where development that would reinforce its role as a provider of services to essentially its home community, would be permitted.

6. This approach is supported by Policy DM15, which restricts development that would result in a loss, or adversely affect the character or appearance, of the countryside unless it is justified by the needs of agriculture, rural economy or community.
7. Whilst Policy DM15 is broadly consistent with the Framework in respect of recognising the intrinsic character and beauty of the countryside, both main parties acknowledge that Policies DM1 and DM15 are more restrictive than the National Planning Policy Framework (the Framework) in their approaches to development. Indeed, the Council acknowledges that Policy DM1 is out of date when judged against the Framework because of its limiting effect on the supply of housing. Nevertheless, the site is positioned outside of a defined settlement boundary and within the open countryside. The proposal would undermine the existing spatial strategy, and this is a matter that counts against the scheme.
8. Policy SP4 of the DDDL P provides a more flexible approach to the location of residential windfall development in settlements such as Preston. Proposals either within or adjoining settlement confines can be considered. The supporting text to the policy clarifies that the built form of the proposed development must be physically and visually related to the existing built form of the settlement it adjoins. Going forward, there is an expectation that in most cases this will require the proposal to immediately adjoin the settlement boundary. However, a 'very close connection' between the development and the built form of the existing settlement can also be considered.
9. The appeal site would not adjoin the settlement boundary. It would adjoin Hardacre Farm and Hardacre House. However, neither are within the settlement, despite the review of the settlement boundary as part of the Local Plan process. The site would be approximately 37m from the settlement boundary although the dwelling itself would be set further away.
10. Visually and physically, the site's context is provided by the woodland to the southeast, open countryside to the south and Hardacre Farm and Hardacre House to the northwest and west respectively. Whilst there is a public right of way that connects the site to the settlement boundary there would be no particular intervisibility between the settlement and the proposed dwelling. None of the above leads me to the conclusion that there is the very close connection between the proposed development and the built form of the existing settlement, as sought by the DDDL P.
11. The DDDL P indicates that where proposals are outside of a settlement and there is not a very close connection with it, the criteria in Framework Paragraph 84 (isolated homes in the countryside) would be applied. The appellant does not consider the proposal to be an isolated dwelling within the countryside but suggests that the scheme would be of exceptional quality, criteria (e) of Paragraph 84. There is no suggestion that the proposal would accord with criteria (a) – (d).
12. The Council acknowledges the high-quality design of the proposed dwelling. I note that the Design, Access, Planning and Heritage Statement submitted with the application refers to it being a bespoke and contemporary scheme. It also references the architect being award winning but does not promote the design as being exceptional. Whilst I don't disagree with the Council that the design would be high quality, there is nothing before me to indicate the design would

reach the very high bar necessary to be considered truly outstanding and that it would significantly enhance its immediate setting.

13. In tandem with the spatial strategy, Policy DM11 seeks to limit travel outside settlement confines. However, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It would therefore be unrealistic to expect occupiers of rural sites to rely completely on walking, cycling or public transport journeys to access normal day-to-day services and facilities.
14. On my site visit I noted the limited street lighting and an absence of pavements. However, the nature of the route from the site into the village did not appear unduly hazardous or arduous. I understand there to be a bus service that can be accessed from the centre of the village although no details as to the frequency of the service have been provided.
15. Consequently, whilst facilities in Preston are limited, it is a village that can provide for some day-to-day needs. Whilst recognising the limitations, there would be some opportunities for future occupiers of the proposed dwelling to make some journeys by more sustainable transport options.
16. However, even if the proposal does not conflict with the approach to managing travel demand, it would not be in a suitable location having overall regard to the local development plan and emerging policies regarding settlements.

Character and Appearance

17. The appeal site is set to the southeast and east of Hardacre Farm and Hardacre House respectively. Both are visible from the appeal site. These houses and their outbuildings form a very loose grouping of buildings, and the proposed dwelling would be seen within that wider context.
18. Although the site is within the open countryside, it is largely shielded from wider views. Parts of the proposed dwelling might be visible from the existing public right of way to the south, but any views would be limited. Physically and visually the site would therefore be well contained.
19. The site benefits from a Certificate of Lawfulness that confirms the land as being residential garden land. It does not indicate it to be curtilage and the appeal site certainly displays the characteristics more akin to a meadow, with mown, informal routes running between large, less managed areas of land. Although it contains a sizable wooden store it does not have the appearance of a normal residential garden in which one might expect to see domestic paraphernalia etc.
20. Even if it were to currently contain domestic paraphernalia or be used more intensively than appears at present, the proposal would see the loss of an undeveloped area of land. Even allowing for its design and the removal of permitted development rights, the construction and use of a new dwelling with large areas of hardstanding would have a greater and more urbanising effect than the existing situation. Whilst the existing context as well as the form and design of the proposed dwelling would help to limit the extent of any impact, there would clearly be some erosion of the character of the immediate locality.

21. As such, conflict arises with Policies DM15 and DM16 of the DDCS and Policies NE2 and PM1 of the DDDL which, amongst other things, seek to foster a positive sense of place, protect the countryside and character of the landscape.
22. The proposal would also be contrary to Paragraph 180 of the Framework insofar as it requires developments to contribute to and enhance the natural and local environment.

Other Matters

23. The current Local Plan pre-dated the Self-build and Custom Housebuilding Act 2015. Nevertheless, Councils have to have regard to this matter and give enough suitable development permissions to meet the identified demand. Emerging Policy H5 does support the provision of such housing, subject to compliance with other policies. The Main Modifications have removed any upper limit on provision of self-build housing.
24. The main parties disagree on the provision and demand for self-build housing in the district. The relaunched self-build register suggests that the previous one gave a false reading as to the scale of demand. Likewise, the number of plots granted planning permission appears to have increased in recent years.
25. Even if the scale of under provision is not as great as the appellant suggests, the Council does not specifically confirm that at present, demand for self-build housing would be satisfied in the forthcoming years. Indeed, the Council accepts that although it would be very minor, the proposed dwelling would make a contribution to meeting the demand identified on the register.
26. The appellant is said to have been involved in the design of the building and there are controls set in place by the unilateral undertaking regarding future occupation. The scheme was clearly submitted as a self-build development, and I have considered it on that basis. This is a matter which weighs positively in favour of the proposal.
27. The Council does not consider the appeal site to fall within the definition of previously developed land, as set out in the Framework. However, even if it does, national policy does not favour utilising brownfield land wherever it is found. Rather paragraph 124 gives substantial weight to the value of using suitable brownfield land *within settlements* [my emphasis] but that does not apply here.
28. The Framework encourages housing to be located where it would enhance or maintain the vitality of rural communities in order to promote sustainable development in rural areas. Whilst the appeal site would be likely to make a contribution in this way, any benefits would be slight.
29. There are a number of matters to which the Council has not objected, such as heritage, archaeology, design, effect on neighbouring occupiers, access and parking etc. However, a lack of objection regarding these issues would be required for any development to be considered acceptable. As such they represent a lack of harm and so are neutral within the overall balance.

Planning Balance

30. The proposed dwelling would be outside of Preston and it would not have the very close physical and visual connection with the settlement boundary that the

DDDLP requires. The proposal would conflict with the spatial strategy. Although limited and localised, there would be some harm to the character and appearance of the area. The proposal would therefore not accord with the development plan as a whole.

31. Whilst the DDCCS pre-dates the Framework, the DDDL now carries considerable weight. The Council has also confirmed that this policy background has not prevented it from having a 5 year supply of housing. The conflict with the development plan therefore carries considerable weight. However, the most important policies for determining the appeal are not fully reflective of national policy and are out-of-date. The balance in paragraph 11 d) ii of the Framework is therefore engaged.
32. The site would be contrary to the planned location of housing. This conflict is a major objection. Furthermore, the proposal would have an additional modest but harmful effect on the character and appearance of the area.
33. There would be some benefit in adding to housing supply in a rural area. The proposal would also contribute a further unit to the number of self-build houses in the district and would offer some limited opportunity for sustainable transport options. However, support for these matters is not at the expense of directing development towards appropriate locations.
34. Even if it is accepted that the land could be considered previously developed, building on such land outside settlements is not supported by national policies that seek to make an effective use of land. Coupled with the other environmental, social and economic advantages associated with the construction of this particular house, the overall benefits of the scheme would be modest.
35. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

36. The proposed dwelling would be contrary to the development plan and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

Stewart Glassar

INSPECTOR