



Appeal Decision

Site visit made on 26 June 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2024

Appeal Ref: APP/E2205/W/23/3332341

Land adjoining Holly House, The Street, Westwell, Ashford, Kent TN25 4LQ

- 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 Dwyer Engineering Services Ltd against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/0283.
 - The development proposed is the erection of three detached sustainable dwellinghouses, associated access, parking, ecological enhancements and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for housing, having particular regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the area, including the AONB;
 - the effect of the proposed development on the living conditions of the occupiers of Choblers, with particular regard to privacy and outlook; and
 - whether adequate provision of refuse storage and collection arrangements would be provided.

Reasons

Appropriateness of location

3. Policy HOU3a of the Ashford Local Plan (LP, 2019) sets out that residential development and infilling will be acceptable within the built-up confines of several settlements, including Westwell. The built-up confines of the borough's settlements are not set out illustratively. Instead, the supporting text of the policy sets this out as 'the limits of continuous and contiguous development forming the existing built up area of the settlement, excluding any curtilage beyond the built footprint of the buildings on the site (e.g. garden areas)'.
4. Based on observations during my site visit, I do not consider the appeal site to clearly fall within the Council's definition of built-up confines. Rather, it is garden land beyond the existing built-up area of the settlement. From that

perspective, the appeal site could reasonably be described as located within the countryside.

5. LP Policy HOU5 sets out that residential development in the countryside which adjoins or is close to the existing built-up confines of several listed settlements will be acceptable subject to meeting a set of criteria. Westwell is not specifically listed within this policy. Even if it were, the proposed development would fail to meet the requirements of the policy insofar as it would not be within easy walking distance of basic day-to-day services and/or have access to sustainable methods of transport. Although I note that Westwell is supported by a church and village hall, it provides very limited day-to-day services. These would most likely to be obtained in Charing. I also acknowledge that bus stops are located close to the site providing links to other settlements. However, I have no substantive information before me as to the frequency of those services.
6. I acknowledge that paragraph 109 of the Framework sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwelling would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory cycling and walking routes and a lack of reliable public transport facilities.
7. LP Policy HOU5 goes on to set out that residential development elsewhere in the countryside will only be permitted if the proposal is for at least one of a series of exceptions. These, in summary, include accommodation for a rural worker, development that would represent the optimal viable use of a heritage asset, the re-use of a redundant or disused building, a dwelling of exceptional quality or innovative design, or a replacement dwelling. Based on the evidence before me, the proposed development would not meet any of the exceptions under this policy.
8. My attention is drawn to a previously approved development for housing at the Wheel Inn. Whilst I accept that distances to services between the sites are similar, I have very limited information before me of that scheme, including the planning balance there, such that I cannot draw any comparisons between that development and the appeal scheme. I have assessed the appeal scheme based on its own individual circumstances, against the development plan. Ultimately, the existence of that permission does not change my conclusion on this main issue.
9. Consequently, I conclude that the proposed development would be positioned in an unsuitable location for housing, contrary to the relevant provisions of LP Policies SP1, SP2 and HOU5. These policies, in summary, seek to ensure development is located to minimise the need to travel and avoid development in the countryside. This is in a similar vein to the objectives of the Framework insofar as transport issues should be considered from the earliest stages of plan making and development proposals.

Character and appearance

10. The appeal site forms a predominantly grassed parcel of garden land adjacent to Westwell Lane. It is separated from the road, adjoining agricultural land and adjoining properties by boundary fencing and mature landscaping. Irrespective of the site's current association with Holly House, and that it is managed, its features do not give it a particularly domestic or traditional garden character.

11. The site is also located within a National Landscape (formerly referred to as an Area of Outstanding Natural Beauty). Areas of Outstanding Natural Beauty (AONBs, or National Landscapes) are designated for the purposes of conserving and enhancing natural beauty. Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) places a duty upon me to have regard to these purposes in this decision. Supporting this objective, the Framework paragraph 182 sets out how great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
12. Despite some nearby buildings, including Choblers, the surrounding area is predominantly verdant and rural in character, largely formed of open fields and mature landscaping. Substantial and mature hedgerows generally line lanes and roads within the surrounding area, including along the appeal site's boundary with Westwell Lane. Although the appeal site contributes to the rural character of the area it, due to its position and nature, makes only a limited contribution to the landscape character of the AONB.
13. Although positioned to the rear of Holly House, the proposed development would be visible, at least in part, from Westwell Lane. The scheme would introduce three domestic buildings where there is currently no development, eroding the rural character of the site and surrounding area. Even if landscaping were to be retained or enhanced on the site and some areas left over for garden space, the site's currently open appearance would be lost, including the inevitable hard surfacing and paraphernalia typical of domestic properties. Overall, the proposed development would have a harmful urbanising effect on the rural character of the site and surrounding area.
14. I acknowledge that the design of the proposed dwellings goes someway to reflect the vernacular of the surrounding area, using materials that would assimilate to an acceptable standard and set within landscaped garden plots. I also accept that nearby Arlbrook and other properties could be argued to appear more suburban in nature. Nevertheless, these matters do not overcome the harm that I have identified.
15. In respect of the impact on landscape character, I consider the proposed development, in this particular case, would have a neutral effect. The site is self-contained and has limited significance in terms of the wider AONB character. That I have found no harm in respect of the AONB does not overcome the harm that I have identified to character and appearance more broadly.
16. Overall, I conclude that the proposed development would harm the character and appearance of the surrounding area, contrary to the relevant provisions of LP Policies SP1, SP6, ENV5 and HOU5. These policies, in summary, seek to direct development towards existing settlements, protect the character of the countryside and ensure that new development is of a high quality. This is in a similar vein to the objectives of the Framework insofar as good design and the protection of landscapes is concerned. LP Policies ENV14 and HOU10 have been referenced within the Council's evidence, however these policies are not before me.

Living conditions

17. At present, the occupants of Choblers benefit from reasonable levels of privacy within their rear garden. This is due to the undeveloped nature of the appeal site and the boundary of substantial and mature vegetation.
18. The proposed development would introduce built form to the site where this is not currently the case. This would include several first floor windows. However, these properties would be set back from the shared boundaries. This, irrespective of the precise separation distance, together with the retained intervening landscaping, would ensure no harmful overlooking. Whilst I accept that planting and boundary features cannot be relied on in perpetuity to give the same level of screening as at present, the established planting along the boundary with Choblers is typical of the area and, in my view, it is unlikely that it will be substantially reduced or lessened over time.
19. Although the proposed dwellings would, in part, be visible from Choblers, I do not consider that they would unacceptably change or harm the outlook or sense of enclosure from Choblers. Natural outlook from the rear facing windows is down through the garden and towards mature boundary vegetation and the proposed dwellings would only be partially glimpsed when looking at an oblique angle. The effect of the proposal would represent only a fractional change.
20. Consequently, I conclude that the proposed development would be acceptable in terms of the effect on the living conditions of the occupiers of neighbouring properties. It would accord with the relevant provisions of LP Policy HOU5. This policy, insofar as this main issue is concerned and amongst other objectives, seeks to ensure that development proposals do not adversely impact on neighbouring uses. This is in a similar vein to the Framework insofar as the protection of amenity is concerned.

Refuse storage and collection

21. The Council considers that refuse storage and collection arrangements would be inadequate, particularly in respect of drag distances for occupiers. However, I do not consider the drag distance to be so great as to be inadequate or harmful. As such, I consider that these details could be satisfactorily dealt with by condition in the event that the appeal was allowed.
22. Consequently, and subject to a condition requesting further details, the proposed development would be acceptable in respect of waste storage and collection. There are no policies before me which would conflict with the proposed arrangements.

Other Matters

23. In respect of Stodmarsh water environment, I note the appellant's inclusion of a signed unilateral undertaking in relation to the transportation of waste to a water treatment plant outside the catchment area. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent must make an appropriate assessment to establish likely effects in terms of protected sites. However, given my reasoning in respect of the main issues, there is no duty upon me in that regard and I do not need to consider it further. However, and even were I to find the proposal acceptable in this respect it would be neutral in my determination of the case and would weigh neither for nor against the proposed development.

24. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d are engaged. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) 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.
25. The proposed development would represent a contribution of three extra dwellings to housing supply in an area with an acknowledged lack of future provision. There, too, would be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of trade to nearby services and facilities. I also acknowledge the proposed development would make efficient use of a small site and incorporate landscaping enhancements. However, although I give weight to these, the benefits and the contribution to housing supply in the district would inevitably be limited given the scale and nature of the development proposed. Accordingly, and given the harm I have identified above, the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
26. I do not doubt the appellant's proposed ecological and sustainability objectives, noting matters such as the inclusion of air source heat pumps, triple glazing and the installation of electric vehicle charging points. However, these matters are not wholly reliant on the scheme before me.
27. The site is also located close to Westwell Conservation Area (CA). Statute¹ places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Bearing in mind the position, nature and extent of the proposal, I consider that it would have a neutral effect on, and would therefore preserve, the character and appearance of the CA as a whole. As such, the proposed development would not harm the significance of the heritage asset. There is no dispute between the main parties in respect of any nearby listed buildings. I have no reason to disagree with those findings based on the location and nature of the proposed development. Nevertheless, the lack of harm in these respects does not weigh for or against the appeal and does not alter my conclusion on the main issue.

Conclusion

28. For the reasons above, and having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

¹ Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.