



Appeal Decision

Site visit made on 16 October 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/V2255/W/24/3344612

Fairmeadow, The Barn, Swanton Street, Bredgar, Kent ME9 8AT

- 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 Mr Edd Cheshire against the decision of Swale Borough Council.
 - The application Ref is 24/501118/FULL.
 - The development proposed is a change of use for existing annexe barn into residential dwelling including changes to fenestration.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have, like the Council, taken the site address from the initial planning application forms supplied by the appellant which contains reference to Fairmeadow. I have taken the address from the appellant's application forms. The description of development is taken from the Council's decision notice and appellant's appeal form as it more fully describes that for which permission is sought. I have omitted the reference to 'retrospective' as it is not an act of development.
3. The appellant draws my attention in their appeal submission to the property having been used as a dwelling for a number of years and relies heavily on this as a justification for allowing the appeal. The Council raises queries in respect of this issue. However, the appeal is not for a Lawful Development Certificate (LDC), which is the procedure used to help establish, on the balance of probability, when a development took place and thus how long a particular use may have subsisted at a building. Rather, this is an appeal against the refusal of an application for planning permission and therefore involves consideration of the planning merits of the proposal rather than an assessment of the length of time the use may have existed. My consideration of the issues in the current appeal does not prejudice the submission of a separate application for a LDC.
4. In November 2023, all designated Areas of Outstanding Natural Beauty became National Landscapes. However, the National Planning Policy Framework (the Framework) continues to refer to them as Areas of Outstanding Natural Beauty (AONBs). In this decision I have used the term AONB, consistent with the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issues

5. The main issues are a) whether the appeal site is an appropriate location for the proposed development having regard to policies for the distribution of housing and the effect on the character and appearance of the area including the setting of the Kent Downs Area of Outstanding Natural Beauty; and b) the living conditions of future occupiers.

Reasons

Location

6. The Council's spatial strategy seeks to focus development within the borough's main settlements, whilst allowing more limited growth in smaller rural centres and villages. This approach is designed, amongst other things, to ensure that development occurs close to existing services and facilities, which in turn reduces the need to travel and protects the open countryside from inappropriate sporadic development.
7. The appeal site falls within the Kent Downs Area of Outstanding Natural Beauty ('AONB'). Such areas are designated for their natural beauty and have the highest status of protection. Both national and local planning policies seek to limit development in AONBs to that which 'conserves and enhances the special qualities and distinctive character of the AONB'.
8. The appeal site comprises an existing timber clad barn like structure, located approximately 1.5km to the south-west of Bredgar. Although there is a dwelling immediately to the rear of the appeal building and there are others nearby, in planning policy terms the site is within the open countryside.
9. Swanston Street is not a particularly wide road and there is no dedicated footpath or street lighting to serve the appeal site. Thus, whilst it would be possible to cycle to Bredgar, or to Hollingbourne, it would not be a particularly attractive option for most people. The reality is that in most instances, and especially in winter months, after dusk or during inclement weather conditions, occupants would need the use of a private vehicle. Indeed, it would be highly likely that they would rely on it as the most convenient means of carrying out their day-to-day activities.
10. I therefore find that the proposal would not be close to services or facilities and would not offer sustainable transport options. The building would not be isolated within the terms of the Framework and so would not take advantage of any of the exceptions set out in paragraph 84. There are no other policies or exceptions that have been put forward in support of the appeal. This all counts against the proposal.
11. Despite there being other buildings in the vicinity, the area surrounding the site is generally rural in character. Given its size and position close to Swanston Street, the barn is visible from passing vehicles although it does not appear overly dominant or particularly out of keeping with the wider setting. Based on the appellant's submission, the building appears to have existed on the site for many years.
12. The proposal involves the addition of a new door on the northwestern, roadside, elevation. The door shown would give the building a more domestic

appearance, but its final design could be made subject to a condition, to ensure that it better reflected the building's character.

13. The use of the barn as an independent dwelling, as opposed to say an annexe serving Victor House, could potentially lead to some intensification in use and domestication of the site, through additional comings and goings, domestic paraphernalia and cars parking in front of the barn.
14. However, the main garden serving the building is to the rear, away from Swanton Street, and so is likely to be more regularly and heavily used than the forecourt to the front of the building. The rear garden would also be adjacent to and seen within the context of the larger curtilage of Victor House, thereby dissipating much of its visual impact. Some additional cars parking in front of the building could arise but the area is currently laid out to enable car parking and so this could occur regardless of whether or not the appeal is allowed. An alternative front boundary treatment would potentially help soften any such visual impact and could be controlled through planning conditions.
15. On balance, I do not find the proposal harmful to the wider character and appearance of the area or the setting of the AONB. However, given the remoteness of the appeal site from services and facilities I conclude that it is not a suitable location for new housing and would undermine the provisions of the Council's spatial strategy.
16. It would therefore be contrary to the provisions of Policies ST1, ST3, CP2, CP3, and DM14 of the Swale Local Plan 2017 (SLP). These policies, when taken as a whole, seek to deliver sustainable development in appropriate places and to minimise the need to travel for employment and services, as well as to facilitate sustainable transport.

Living Conditions

17. Victor House lies some 18.7m metres to the rear of the appeal building. At the time of my site visit the replacement dwelling for Victor House appeared to have been largely completed but was unoccupied. At ground floor level it has a three-pane window and a glazed door with side window facing towards the appeal site. Despite the intervening area being occupied by parked cars and the appeal site being enclosed by a modest fence, some intervisibility between the properties was evident.
18. Within the roof of this replacement dwelling is a dormer with a three-pane window facing towards the appeal site. The view from the dormer would, given its height and position, have uninterrupted views into the garden and most of the windows serving the appeal building on its main, southeastern, elevation. It was flanked by two rooflights whose position and angle suggested direct views of the appeal site would be less likely, certainly when they were closed.
19. The dormer is said to serve a study. Whilst I accept that anyone using the room as a study, or even as a bedroom, would not spend all their time looking out of the window, it would nevertheless offer extensive views over and into the appeal site. It seems to me that occupants of the appeal site, either when in the building or when using the garden would be conscious of the neighbours in Victor House and would experience an unacceptable degree of overlooking and loss of privacy, both perceived and real.

20. In some settings a degree of mutual overlooking might be expected and can often be a characteristic of a more urban setting. However, this is a rural area where such overlooking would be less anticipated or expected. Whilst a 2m high hedge might overcome some of the harm it would not reduce it to an acceptable level. I am also mindful that this would be a form of mitigation of harm rather than an enhancement of the landscape. The purpose of landscaping is to integrate a development into its surroundings, not to hide something which is otherwise unacceptable.
21. Consequently, I find the proposal to be harmful to the living conditions of future residents and so contrary to Policies DM14 and DM16 of the SLP which, amongst other things, seek to ensure developments protect and do not cause significant harm to amenity.

Other Matters

22. The appellant points to the support for the proposed development from the Parish Council. However, this in itself does not mean that the current scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.
23. The proposal is said to not be a flood risk, would exceed the minimum space standards and would provide a well-designed garden and parking. However, these would generally represent compliance with development plan policies which would be an expectation rather than a benefit of the scheme. Furthermore, they do not signify that the proposal would be acceptable in terms of the harms I have identified.
24. The proposal is for a bungalow which are said to be in short supply nationally. It is also said to represent a lower cost, more affordable dwelling. However, I have no details or substantive information regarding such matters and so cannot be sure that they are benefits which can be weighed positively in favour of the proposal. Even if I were able to attribute them weight in my decision, they do not address or overcome the harms I have identified above.
25. Other approved developments in the vicinity of the appeal site have been identified. As such, I have had due regard to these as material considerations. However, in doing so, I do not have full details of these other schemes before me. Therefore, whilst I have taken the relevant points made into account, I have given only limited weight to these other schemes and decisions in my assessment of the appeal proposal. Notwithstanding this, and in any event, each proposal must be assessed and determined on its own individual merits and circumstances and I can confirm that this is the case with this appeal.

Conclusion

26. Whilst there may be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar
INSPECTOR