



Appeal Decision

Site visit made on 7 October 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2024

Appeal Ref: APP/V2255/W/23/3334756

Light Industrial Units (Disused) on Land Adjacent to Pebble Court Farm, Woodgate Lane, Borden ME9 7QB

- 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 and Mrs Michael Miller against the decision of Swale Borough Council.
 - The application Ref is 22/505870/FULL.
 - The development proposed is the conversion and change of use of existing detached disused and abandoned former light industrial workshop into a three bedroom dwelling (C3) and conversion and change of use of existing adjacent detached former associated office and store (previously hay barn) currently disused into a home office to be used for the dwelling occupier. Proposals include part demolition of existing commercial workshop and installation of a sewage treatment plant and EV charging point.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the suitability of the site for the proposal, having regard to local and national policy for the location of housing.

Reasons

3. The appeal site comprises two separate single storey buildings which have fallen into a state of disrepair and are not in active use. Policies ST1 and ST3 of the Bearing Fruits 2031: The Swale Borough Local Plan (LP) set out the settlement strategy for Swale in order to deliver sustainable development. The appeal site is outside of any settlement boundary and therefore it lies within the countryside for policy purposes.
4. LP Policies ST1 and ST3 set out that, for sites in the countryside outside the built-up area boundaries, development will not be permitted unless it meets particular criteria, including that the development would protect the vitality of rural communities.
5. The supporting text to LP Policy ST3 acknowledges that the lowest settlement tier includes hamlets, ribbon development and small clusters of development where there are limited or no facilities. The appeal site does not lie within, but is located on the edge of one such ribbon of development, Danaway, which contains limited services and facilities.
6. The proposed dwelling would be accessed via Woodgate Lane, which leads onto Maidstone Road, a tarmacked road with paving along one side. However,

Woodgate Lane is a steep single-track lane which is unmade and unlit. Therefore, it does not provide an easy walking or cycling environment, nor would it be appropriately accessible to those with mobility issues, buggies or young children.

7. As such, it is unlikely that future occupants of the proposal would walk or cycle as a matter of routine. Although the nearest bus stops to the site are located on Maidstone Road, the distance that would need to be travelled along Woodgate Lane to reach them, together with the limited services offered, would be a disincentive to its use rather than the private car. Consequently, future occupants of the proposed dwelling would be reliant upon the private car for everyday trips such as access to shops, education, leisure or medical care. As such, the proposal would be unlikely to protect the vitality of rural communities.
8. Having regard to the situation on the ground, the site is in a fringe location and its context is one of woodland, open countryside and farmland with a markedly rural character. Indeed, the woodland separates the site and its adjoining neighbours from the more built-up area around Maidstone Road. As such, this does not alter my conclusion that the site is not in a suitable location for housing. A similar conclusion was reached by the Inspector¹ with regard to a previous application on this site.
9. I recognise that there is existing residential development in the area with poor access to services, and that people live in such locations by choice. Further, any person using the site for its current lawful use would likely rely on the same transport options as the future occupants of the proposed dwelling. However, this does not negate the Council's spatial strategy which seeks to direct new residential development towards urban areas with good quality transport options and wide range of services and facilities.
10. The proposal would provide one home office and the appellant advises their small business would be run from the site. Whereas this may be the case, the new dwelling is likely to remain long after the appellant's circumstances cease to be material and, additionally, there is no guarantee that any other future occupants would work from home. As such, I am not persuaded that the provision of a home office would reduce the potential vehicle movements to and from the site.
11. The appellant suggests that the proposal would constitute the development of previously developed land (PDL). Even if I were to agree that the proposal would make use of PDL, and while I recognise that there should generally be a strong presumption in favour of repurposing and reusing buildings as set out in the National Planning Policy Framework² (the Framework), this would not change my conclusion that the proposal would not be in a suitable location for housing.
12. LP Policy DM3 states that residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The supporting text to this policy sets out that even if the site or building is vacant, evidence

¹ PINS ref APP/V2255/W/20/3250611

² Secretary of State Decision, ref APP/X5990/V/3301508.

will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use.

13. I understand that the site was on the market for sale for a long period of time and was put up for auction with no success. However, in the absence of robust marketing evidence, the appellant has failed to demonstrate that there is no demand for the building for the uses prioritised by LP Policy DM3, or that those uses of the buildings would be undesirable or unsuitable. Further, while it may be that the appellant's business would be run from the site and contribute to the rural economy, there is no compelling evidence before me to demonstrate that this would amount to a commercial use in its own right.
14. As such the proposed development would have poor access to day-to-day services by sustainable transport modes. It would not be a suitable site for housing with particular regard to its accessibility. Therefore, in this respect, it would be contrary to LP Policies ST1 and ST3, the aims of which are set out above. Further, the proposal would conflict with LP Policies DM3 and DM14, as it has failed to demonstrate that the site would not be suitable to accommodate rural employment and/or community facilities.

Other Matters

15. I note that the site lies within 6km of the Swale Special Protection Area (SPA) and the proposal has potential to increase the recreational disturbance within the SPA. Had I been in a position to otherwise allow this appeal, it would have been necessary to consider this matter within a separate Appropriate Assessment. As the appeal is being dismissed for other reasons, I have not done so.
16. I understand that the appellant has voluntarily offered to provide the means of securing a tarmac surface along the relevant section of Woodgate Lane. However, the appellant confirmed that this is a personal matter that does not form part of the planning submission. Indeed, it falls outside the red line boundary as shown on the site location plan and is not reflected in the description of development. On this basis, I have not considered this matter any further as there is no mechanism before me to do so.
17. The site at Woodgate Lane, Borden³ was granted planning consent prior to the adoption of the current LP. In addition, it delivered 11 dwellings to the housing stock and this site has a direct, paved access to Maidstone Road, which is not the case of the scheme before me. Therefore, the accessibility of this site differs from the appeal site. As such, I do not find that this neighbouring development represents a direct parallel to the appeal proposal.
18. The evidence indicates that the three residential units at The Field Barn⁴ were granted consent through the prior approval process, so this application would have been assessed under permitted development regulations. As such, this neighbouring development would not be directly comparable to the proposal before me. Reference is made to other residential developments around Danaway that have been granted planning permission by the Council.

³ LPA Ref 15/507804/FULL

⁴ LPA Ref 21/504972/PNQCLA

However, in absence of full details relating to these cases, I am unable to draw any meaningful comparison with the appeal scheme.

19. The provision of a self-build house is mentioned. There is no evidence regarding the self-build register and the need to deliver this type of housing has not been demonstrated. Even if there is a deficit, the proposed development would make a minimal contribution and, in any event, there is no legal agreement securing its provision.
20. Borden Parish Council did not object to the proposal, and I note one comment in support of the scheme. However, for the reasons outlined above, I find that the site would not be in a suitable location for housing.

Planning Balance and Conclusion

21. The scheme conflicts with the development plan as a whole due to its location outside of settlement boundaries and failure to demonstrate that the site has been appropriately marketed. These policies are broadly consistent with the Framework, which supports development on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes and seeks to support a prosperous rural economy. As such, I afford this harm substantial weight.
22. The proposal would be acceptable in relation to other matters, including highway safety and the effect on character and appearance was not a reason for refusal. However, these are neutral factors that neither weigh for or against the development.
23. In terms of benefits, the proposal would meet the Framework's objectives of boosting the supply of housing. The scheme would develop a small site, would result in works to vacant buildings which are in a poor state of repair, would incorporate low energy consumption measures and would maximise the reuse of existing materials. These factors weigh in favour of the scheme but given that the proposal is for one new dwelling, these matters carry limited weight in my assessment.
24. The latest evidence provided by the Council sets out that it can currently demonstrate a 5 year housing land supply. This is disputed by the appellant, although it is not supported by robust evidence. Therefore, I am unable to reach a reliable conclusion on the Council's housing land supply position. However, even if I were to assume, for the purposes of this appeal, that the requisite housing land supply does not exist, the adverse impacts in this case would significantly and demonstrably outweigh the benefits associated with the delivery of one dwelling. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
25. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR