
Appeal Decision

Site visit made on 26 November 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/V2255/W/24/3339820

4 Oast Cottages, Breach Lane, Upchurch, Kent ME9 7PH

- 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 Stephen Greensted against the decision of Swale Borough Council.
 - The application Ref is 23/503389/FULL.
 - The development proposed is construction of single storey barn style dwelling with detached garage utilising existing access from Breach Lane.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities; and
 - ii) the effect of the development proposed on the character and appearance of the area.

Reasons

Location and accessibility

3. The appeal site comprises a relatively flat, undeveloped parcel of land. It is understood that the site has been used as a paddock for the grazing of horses. To the north is a dwelling, and various outbuildings, and to the south of the appeal site, on Breach Road, there is sporadic residential development. There is also commercial development opposite the site and equestrian-related uses nearby. Whilst proximate to nearby built form, the appeal site lies beyond any established built-up area boundary and is in a countryside location.
4. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "*At locations in the countryside, outside the built-up area boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*".

5. The National Planning Policy Framework (the Framework) promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. Furthermore, it acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
6. It is understood that the appeal site is approximately 1.3 miles from Newington, 1.1 miles from Lower Halstow and 1.5 miles from Upchurch. With the larger settlements of Rainham and Sittingbourne further afield. Policy ST3 of the Local Plan identifies Newington as a tier 4 local service centre and Upchurch and Lower Halstow as tier 5 villages, the lowest ranking of settlements. From the evidence before me access to the settlements and their services is limited.
7. Breach Lane is an unlit road with no pavement and is subject to the national speed limit. My attention has been drawn to the presence of bus stops nearby. However, bus services appear to be limited.
8. The appellant submits that Breach Lane is used by ramblers using the many footpaths in the area. The availability of home delivery services is noted, which may reduce the need for private motor vehicle trips. Nevertheless, whilst I note the health benefits and lower carbon emissions derived from sustainable travel, given the distances involved, the limitations of the immediate rural roads and limited public transport, the future occupants of the proposed dwelling would be unlikely to walk or cycle and would largely be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
9. By any mode of travel there is no evidence that local facilities are not already viable. Nor that one household would make a material contribution to maintaining them or maintain or enhance the wider viability of a local community in a meaningful way.
10. Whilst the proposed dwelling would be positioned between two residential properties, whether the proposal would represent infill is a question of planning judgement based on an assessment of the site and its surroundings. I am not convinced that the proposal constitutes infill development. The dwelling would be set back from the highway and would be separated from the cluster of dwellings to the south by a large undeveloped area of land. Whilst I do not disagree that infill generally refers to development between existing development, to my mind despite the site having built form either side the proposal would not result in the completion of a gap between an otherwise continuous and contiguous frontage.
11. The appellant refers to a number of appeal decisions stating that these provide support to the appropriate location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance which refers to the importance of determining similar cases in a similar manner.
12. I am not party to the evidence before the Inspector, however, based on the limited information before me, I do not consider the case of land adjacent

Kaine Farm House¹, to be directly comparable to the appeal scheme before me. Whilst the location may be close to the appeal site, further along Breach Lane, the description of development and context differ. In any event, I have determined this case on its own merits.

13. In having regard to the Court Judgements in *Braintree*² and *Bramshill*³, the proposed dwelling would not be physically separate or remote from a settlement, and therefore would not constitute an isolated home in the countryside.
14. For the reasons stated above, I find that the appeal site is not a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. Conflict arises with Policies ST1, ST3, CP2, DM6, DM14 and DM24 of Local Plan. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities. It would also conflict with the Framework which seeks to promote sustainable development and protect the open countryside.

Character and appearance

15. Although there is loose knit development in the area, the wider area is predominantly rural. The site's open and undeveloped nature contributes positively to the rural character of the locality. The site is visually separated from nearby developments by vegetation along the site boundaries. The site does not appear as part of a built-up area, rather it is open and assimilates with, and forms part of, the wider rural landscape.
16. The construction of a dwelling on the site would encroach into a field, set back significantly from the highway. The frontage boundary hedge would do little to screen the dwelling in the surrounding landscape.
17. The garden to the proposed dwelling would be large. The domestication of the plot, including the proposed triple garage, would give rise to a suburban appearance, contrary to the character and appearance of the site and open countryside.
18. Dwellings within surrounding areas vary in scale and design. The proposed dwelling would be of a contemporary barn style that would be of a high-quality design. Whilst a suitable external finish and landscaping could be conditioned, the very presence of development would have a negative impact on the intrinsic character and beauty of the countryside.
19. Even if I were to consider the proposal as previously developed land, in addition to concluding that the site would not be in a suitable location for housing, the proposed development would erode the contribution the appeal site makes to the rural character and appearance of the area.
20. For these reasons, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policies ST3 and DM14 of the Local Plan. The development would also conflict with the Framework which

¹ APP/V2255/W/17/3175061 - Demolition of seven farm buildings and the construction of six detached dwellings and garages

² Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

³ City and Country Bramshill Ltd v SSHCLG [2021] EWCA Civ 320

requires development to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

21. I note that an appropriate level of parking would be provided to serve the future occupiers of the development. I am satisfied that the proposed dwelling would cause no harm in respect of the living conditions of existing occupiers of neighbouring properties. Nor would there be harm in respect of flood risk and the appropriate provision of drainage. However, these are neutral matters that neither weigh for or against the proposal.
22. I appreciate that not everyone wishes to reside within urban areas, and many accept the disadvantages of accessibility are outweighed by the advantages of a rural life. However, these are neutral factors in the determination of the appeal.
23. The appellant submits that many villages in North Kent have limited facilities and an absence of footpaths, with children walking to and from school. They go on to state that there have been several large new developments which are over 2 miles from a bus stop or facilities such as shops. However, I have no further details before me and so cannot draw any meaningful comparisons. Nevertheless, such matters do not lead me to a different conclusion on the main issues in this appeal. In any event, I have assessed the appeal on its own merits.
24. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Planning Balance and Conclusion

25. At the time the application was determined the Council could not demonstrate a Framework compliant housing land supply and the 'tilted balance', as set out in the Framework⁴ was engaged. The Council confirm⁵ that they now have a supply of 5.13 years. This is not disputed, and I have no reason to disagree with that view. As such the tilted balance as set out at Paragraph 11 d) of the Framework is not engaged.
26. I have carefully considered the development as a scheme for self-build. The Self-build and Custom Housebuilding Act 2015 (as amended) places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. The proposal would add to the range of housing. Although there is support for meeting the housing needs for different groups in the community within the development plan and the Framework, this benefit would be limited as only one unit is proposed. Furthermore, this does not diminish other aspects of the development plan and the Framework that seek to deliver homes at appropriate locations.

⁴ Paragraph 11 d) of the National Planning Policy Framework

⁵ 5 year Housing Land Supply calculation (Affordability ratio update March 2024)

27. I note the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures and biodiversity improvements. However, these factors carry no more than limited weight in favour of the development. There would be moderate, social and economic benefits associated with the proposal relating to construction employment, spend within the local economy once the dwelling is occupied and the personal well-being benefits of residing in a countryside location. The dwelling would also contribute towards housing provision, noting that the Framework is supportive of small and medium sized sites, including windfall sites, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. However, given the small scale of the proposed development the weight afforded to these benefits is limited.
28. Even if the 'tilted balance' were engaged, in this circumstance, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
29. For the reasons given above, having had regard to the development plan and Framework as a whole, the appeal is dismissed.

R. Gee

INSPECTOR