



Appeal Decision

Site visit made on 26 June 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/U2235/W/23/3328408

Neverend Farm, Pye Corner, Ulcombe, Kent ME17 1EF

- 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 Mrs P Tarry against the decision of Maidstone Borough Council.
 - The application Ref is 23/500218/FULL.
 - The development was originally described as “retrospective application for the use of the land for the siting and residential use of a mobile home for the retired owner and worker on the farm”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed during my site visit that the development described above has already been carried out. I have dealt with the appeal on that basis.
3. The Maidstone Borough Local Plan Review 2021-38 (the LPR) was adopted on 20 March 2024. Consequently, Policies SS1, DM1, DM30, and SP17 of the Maidstone Borough Local Plan (the Local Plan), listed within the Authority’s reasons for refusal, have been superseded. Accordingly, I have made my assessment against the relevant policies of the LPR, including Policies LPRSS1 Spatial Strategy, LPRSP9 Development in the Countryside, LPRSP15 Principles of good design, and LPRQD4 Design principles in the countryside. Both parties have had the opportunity to comment on the relevant policies as part of the appeal process. I am therefore satisfied that no party has been unfairly prejudiced as a result and I make no further reference to the Local Plan.

Main Issues

4. The main issues are:
 - Whether the site is in a suitable location for the development having regard to local and national planning policies and access to services and facilities;
 - The effect of the development on the character and appearance of the area; and
 - If harm arises, whether it is outweighed by the circumstances of the appellant.

Reasons

Location

5. LPR Policy LPRSS1 sets out the spatial strategy for the borough and hierarchy of settlements, directing new development to the Maidstone urban area, identified rural service centres, and larger villages, with limited growth promoted in smaller villages. This policy is intended to ensure that housing is located in areas which are accessible and sustainable.
6. The appeal site lies in the open countryside outside of the village of Ulcombe, which is a smaller village. Other than a school, church, and village hall, Ulcombe contains very few facilities. The roads around the appeal site, including those connecting it to Ulcombe, are generally narrow country lanes flanked by tall hedges, with no pavements or street lighting. Access to services and facilities is therefore limited.
7. Notwithstanding the appellant's comments about their mobility, I have not been provided with any substantive evidence that there are bus stops within a reasonable walking distance of the appeal site, and from what I observed on my site visit none were evident close by. I therefore cannot be certain that public transport would be a realistic alternative to the private car when accessing shops and services. Therefore, the site is less than ideally located in terms of pedestrian or cycling access to services, facilities and amenities and occupiers are likely to prefer the convenience of the private car. As a result, the environmental and social impacts arising from the proposal would be a negative rather than positive benefit.
8. Therefore, the development is not in a suitable location, taking into account the Council's spatial strategy and access to services and facilities. The principle of the development conflicts with LPR Policy LPRSS1, which requires residential development to be located in sustainable locations focussed which reduce the need to travel. There is also conflict with the National Planning Policy Framework (the Framework) which has similar aims.

Character and appearance

9. The site lies within the Low Weald Landscape Character Area, specifically the Ulcombe mixed farmlands area, where the Maidstone Landscape Character Assessment 2013 (MLCA) cites distinctive landscape features, worthy of conservation and highly sensitive to significant change. However, the MLCA focuses on a much wider area than that which forms the immediate context for the appeal proposals, and also makes no reference to the clusters of sporadic development around the appeal site. As such, the actual character of the land differs to that described in the MLCA. I have therefore based my assessment on the effect of the proposals on the character and appearance of the land around it as I found it.
10. Whilst the wider surrounding area is undulating, open countryside, the area immediately around the appeal site is marked by sporadic development across a cluster of flat paddocks. Much of this relates to gypsy traveller sites and, as such, includes mobile homes. Each paddock is bound by tall trees and mature hedgerows, resulting in restricted views inwards from the narrow roads outside.

11. The access track leading to the appeal site passes a short row of houses at Neverend Farm Barns, the footings of an incomplete dwelling, a separate mobile home, and a sprawling area of hard surfaces and buildings of industrial/agricultural appearance. The appeal site is not segregated in any way from the sprawling area described above, and therefore appears as part of it.
12. A small part of the appeal development can be seen from the site entrance, but that view is over a long distance. It is visible from the houses at Neverend Farm Barns and from parts of the sprawling area, but the surrounding development is of a similar nature and, as such, it does not look out of place. Behind the appeal development is an open paddock bordered on three sides by dense, tall lines of trees. Views of the appeal site from the surrounding area are therefore limited. Should domestic paraphernalia accrue to the front of the appeal site, that would have very little effect on the appearance of what is already a visually cluttered environment there, whilst any paraphernalia to the rear would be screened by the appeal mobile and the trees that surround the paddock.
13. Overall, in the immediate local context the development is neither inappropriate nor harmful to the character and appearance of the area. For the same reasons it does not harm the character and appearance of the Low Weald Landscape of Local Value.
14. Therefore, I conclude that the appeal proposal does not result in significant harm to the rural character and appearance of the area, including the distinctive landscape character of the Low Weald, that it maintains local distinctiveness, and that any impacts from the development on the appearance and character of the landscape are appropriately mitigated by its siting and screening. As such, the proposal accords with, LPRSP9, LPRSP15, and LPRQD4 of the LPR.

Circumstances of the appellant

15. The appellant has stated that the development is necessary given their health. The evidence confirms the conditions the appellant has been diagnosed with and provides an explanation of the nature of each. However, I have very little evidence, except for textbook definitions, of the extent or effect of these conditions, that they limit their everyday activities, are life-limiting, or the level of care that they require beyond providing transport to medical appointments, the frequency of which is not clear. This reduces the weight I can attribute to this aspect of the appellant's personal circumstances.
16. The appellant cites security concerns following reported occurrences of anti-social behaviour. However unfortunate and upsetting for the appellant, this does not in itself weigh in favour of allowing the appeal. I have therefore attributed little weight to this matter.
17. The appellant contends that the older mobile is too small to accommodate both them and their family, but I have no substantive evidence to support this. Furthermore, I have no evidence before me that the appellant's son is or was employed in agriculture and remains dependant on the appellant. I also have no evidence that alternative accommodation has been sought. As a result, and whilst I appreciate that the appellant has resided at the appeal site for many years, I have very little evidence to show what effect dismissing the appeal

may have on the appellant's housing position, and can attribute little weight to it, therefore.

18. The appellant's age has been confirmed, but I have no evidence that they cannot or do not drive, or that their living at the appeal site does not result in additional vehicle movements by their family. A condition prohibiting the appellant from driving would not be enforceable given the practicalities of monitoring for compliance and, in any event, would not prevent additional vehicular movements by the appellants family.
19. Given the above, I find that the appellants personal circumstances do not outweigh the harm I have found in respect of the site location.

Other Matters

20. The appellant has referred to the 1987 mobile home permission as a fallback position. I have no reason to dispute the appellant's claim that she could live in this accommodation. I acknowledge that this forms a realistic fallback position, to which I have had regard in coming to my conclusion. However, my considerations are based solely on the scheme before me. I have determined the appeal on what is proposed and its consequent effects, based on the information provided, and for the reasons set out above.
21. I acknowledge that had the approved permanent dwelling been completed the appellant could have lived there. However, I have no evidence of any intention to complete the dwelling, which has already remained incomplete for some 35 years. Furthermore, the use of the land for agricultural purposes appears to have ceased and I have no evidence that the occupiers of the older mobile home are, or were last, employed in agriculture or are dependent upon the appellant. For the same reasons, I have no evidence that the occupants of the older mobile could lawfully occupy the dwelling, and that the overall number of vehicle movements would remain unchanged in that event. Overall, the prospect of the dwelling being built and occupied attracts limited weight, therefore.
22. I also note that the appellant states that the appeal proposal would provide them with accommodation whilst the permanent house is built, and that it should be seen as ancillary to that development. However, the 1987 mobile home permission already provides temporary accommodation during construction. I am therefore not persuaded of the requirement to provide further temporary accommodation in these circumstances.
23. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the PSED.
24. The appeal is made for a dwelling which the appellant states would be occupied by persons who because of age or disability, are persons who share a protected characteristic for the purposes of the PSED. In dismissing the appeal, I recognise that accommodation which may be suitable for persons with such a protected characteristic would not be forthcoming. However, in my view, the

adverse impacts of dismissing the appeal on those persons are proportionate to the adverse impacts that I have identified above.

25. My attention has been drawn to several other permissions for development on sites close to the appeal site. These relate to development for gypsy and traveller sites and visitor accommodation and are therefore not directly comparable to the proposal before me. The evidence presented does not persuade me that the proposal before me is acceptable. I therefore attribute little weight to these examples which do not outweigh the harm that I have set out above.

Balancing Exercise

26. Although I have found that the development would not harm the character and appearance of the area, I have found that the appeal development is not in a suitable location given the Council's spatial strategy and access to services and facilities by means other than the private motor car. The development therefore conflicts with the development plan as a whole. I ascribe this matter substantial weight.
27. Set against this are the circumstances of the appellant and that the mobile home would be removed once it is no longer required. These matters could be addressed through the imposition of suitably worded planning conditions.
28. Nevertheless, as the balance in favour of the development rests on the personal circumstances of the appellant for a development which would not normally be permitted on the site, these matters coupled with an existing permission from which she benefits for the occupancy of alternative accommodation and planning permission for a permanent dwelling which remains uncompleted, I find that the benefits of the appeal proposal do not clearly outweigh the harm arising from the suitability of the site for residential development. Thereby, the necessary justification for the development has not been adequately demonstrated, and on this basis there are no material considerations which would indicate that the appeal should be determined otherwise in accordance with the development plan.

Conclusion

29. For the reasons given above, having considered the development plan as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

A Knight

INSPECTOR