



Appeal Decision

Site visit made on 28 February 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Appeal Ref: APP/E2205/W/24/3350134

Annexe at Little Spinney, School Lane, Brabourne, Kent TN25 5LQ

- 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 David Ridgway against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/1151.
 - The development proposed is the change of use and alterations to existing garage/annex to form 2-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework (“the Framework”) was published in December 2024 after the appeal was submitted. In the interests of fairness both main parties have been given the opportunity to comment on the revised document and any made have been taken into account in my decision.

Applications for costs

3. An application for an award of costs was made by Mr David Ridgway against the decision of Ashford Borough Council and is the subject of a separate decision.

Main Issue

4. The main issue in this appeal is whether the proposed development would provide a suitable site for housing, having regard to the Council’s spatial strategy and proximity to services and facilities, and the Framework.

Reasons

5. Policy SP1 of the Ashford Local Plan 2030, Adopted February 2019 (“the ALP”) seeks to, amongst others, focus development at accessible and sustainable locations which utilise existing infrastructure, facilities and services, and make best use of brownfield land opportunities. ALP Policy SP2 sets out that development in the rural areas will be of a scale consistent with a settlement’s accessibility, infrastructure and availability of services, and that windfall housing will be permitted where consistent with the spatial strategy and other policies in the plan.
6. ALP Policy HOU5 allows for residential windfall development in the countryside where adjoining or close to the built-up confines of named settlements listed. The ALP does not define what is meant by adjoining or close to a settlement, but the policy’s criteria includes (b) where a site is within easy walking distance of basic

day to day services, and/or has access to sustainable methods of transport to access a range of services, and (d) where it is possible to maximise the use of public transport, cycling and walking to access services.

7. There is no dispute between the main parties that the appeal site is within the countryside. It is located close to the Primary School and a few residential dwellings around the junction with Canterbury Road to the south. These buildings are set within a spacious rural landscape of fields and woodland blocks with a few scattered buildings.
8. The closest settlement to the appeal site that is listed in ALP Policy HOU5 is Brabourne Lees/Smeeth (BLS). The evidence suggests that the built-up area of BLS, which is clearly identifiable on the ground as a consolidated group of buildings, is located approximately 1.2km from the appeal site. The nearest shop within BLS is some 2km from the appeal site and therefore a round-trip to purchase items would entail a journey of some 4km. The evidence suggests that whilst bus services run through BLS, I am not aware of any public transport provision closer to the appeal site. There is also the Five Bells Public House (PH) located some 900m to the northeast of the appeal site that is located within a ribbon of buildings fronting onto The Street near to the junction with Canterbury Road.
9. Journeys to BLS or the PH would be along Canterbury Road, which is a country road largely devoid of footpaths and streetlights, and subject to the national speed limit. Grass verges are narrow and non-existent in places, particularly to the north-east of School Lane, where there are also bends in the road bordered by tall hedgerows that limit forwards visibility. Vehicles appeared to travel frequently along Canterbury Road, often at relatively high speeds along the wider and straighter section towards BLS, and I have limited evidence that my observations, whilst a snapshot in time, were abnormal.
10. Given the road conditions and the distances involved, walking and cycling between the appeal site and BLS, or to the PH, would therefore be an unattractive option for future occupants of the proposed development. This would be particularly so during the hours of darkness and inclement weather, and for people with disabilities and reduced mobility, and would likely be perceived as unsafe.
11. Consequently, future occupiers of the proposed development would not be within a reasonable walking distance of basic day-to-day services, other than the Primary School. They would not be able to maximise cycling and walking or reach a range of services, including employment provision and health care, by sustainable modes of transport. As such, future occupants of the proposed development would be expected to be heavily reliant upon the private car to access services and facilities.
12. Whilst the number of car journeys from a single dwelling would be relatively low, they would nonetheless cumulatively add up over the lifetime of the development, as would their greenhouse gas emissions. The same would apply to other existing dwellings in comparative locations. However, this does not justify occupants of the appeal proposal being heavy reliant upon the private car to access services and facilities. I see no reason to find that the services within BLS would not be able to absorb the demand placed upon them by the proposed dwelling. However, this

does not alter my conclusion on their accessibility by sustainable methods of transport.

13. The Primary School would be very accessible from the appeal site. However, this is just one facility catering for younger children, and the proposed dwelling would be a smaller housing unit comparatively less likely to be occupied by a family with children than a larger home. Therefore, the Primary School does not alter my conclusion in respect of my assessment of the appeal proposal against the criteria in ALP Policy HOU5.
14. Taking all the above into account, I conclude that the appeal development would be contrary to ALP Policy HOU5, insofar as it provides for windfall housing in the countryside where adjoining or close to the built-up confines of specific named settlements and the Policy's criteria listed above.
15. ALP Policy HOU5 allows residential development 'elsewhere in the countryside' where it would, amongst others, re-use a redundant or disused building and lead to an enhancement to the immediate setting. Whilst the functionality of the appeal building may no longer be required by the property's current owner, the building is in good condition. The ground floor garaging was being used for storage at the time of my visit, and the first floor contained furniture and domestic paraphernalia consistent with its annexe use. For these reasons, the appeal building's use and condition could not be considered disused or redundant and I have no substantive evidence to conclude otherwise.
16. Even if I were to agree that the building was disused or redundant, the external staircase to the building is a thin profiled structure located on the opposite wall to School Lane where it is partially screened by the building and nearby planting. The staircase is in keeping with the building's ancillary character and its removal would have a neutral effect on the building's immediate setting, not an enhancement. Similarly, I have no details of additional planting and cannot be satisfied that it would deliver an enhancement to the building's setting. The proposal would not be a replacement dwelling and would not relate to any heritage assets, nor has it been proposed or assessed by the Design Panel, as an exceptional design. Therefore, it would not meet any of the other exceptions in ALP Policy HOU5 for development elsewhere in the countryside.
17. The Framework does not define the meaning of an isolated home in the countryside but seeks to avoid them, subject to specific circumstances. In my judgement and in the absence of any other definition to the contrary, it would include, in the context of the Framework's objectives for rural housing, a dwelling that is physically separate or remote from a settlement. This is a matter of planning judgment.
18. The appeal site, together with the Primary School and the 2 dwellings to its south, appear as a small number of buildings set in the countryside. There is limited intervisibility between some of those buildings due to a combination of distance, intervening vegetation and topography of the land. Together, they do not read physically as a settlement on the ground.
19. The appeal site is separated from the built-up area of the settlement of BLS by a distance of some 1.2km and a landscape of mostly open fields, with only a few scattered buildings between them. There is no discernible intervisibility between

the appeal site and BLS. As such, it is my judgement that the appeal site is physically separate and remote from the settlement of BLS.

20. The Five Bells Public House (PH) is set within a relatively well consolidated row of buildings that fronts onto The Street, and which continues around its junction with Canterbury Road. The evidence suggests that those buildings are within Brabourne Village and whilst this is not a named settlement in ALP Policy HOU5, those buildings are sufficiently numerous and close together, in my judgement, to physically form a discernible settlement.
21. The evidence suggests that the appeal site is separated from that group of buildings, which includes the PH, by a distance of around 400m. They are separated by land that includes a narrow sinuous road lined by tall hedgerows that extends through the undulating landscape of fields, with only a few sporadic buildings between them, situated closer to the settlement. There was no intervisibility between the appeal site and the discernible group of buildings within the settlement of Brabourne. Given these characteristics, it is my judgement that the appeal site is physically separate and remote from this settlement.
22. For these reasons, the appeal site is isolated from the settlements of BLS and Brabourne. It follows that the appeal proposal would constitute an isolated home in the countryside that Framework Paragraph 84 seeks to avoid. Furthermore, it would not, amongst others, subdivide an existing residential building, re-use a redundant or disused building and enhance its immediate setting, be of exceptional quality, nor relate to heritage assets. As such, it would not comply with any of the circumstances necessary to justify an isolated home in the countryside under Framework Paragraph 84.
23. Consequently, I conclude that the proposed development would not provide a suitable site for housing, having regard to its proximity to services and facilities. It would therefore conflict with ALP Policies HOU5, SP1 and SP2, insofar as they seek to restrict development in the countryside to sites adjoining or close to the built-up confines of named settlements, and direct development to locations where services and facilities are available and accessible by sustainable modes of transport. The appeal proposal would also be contrary to Framework Paragraphs 83 and 84, insofar as they seek to avoid isolated homes in the countryside and locate housing where it would enhance or maintain the vitality of rural communities.
24. The proposal would cause no harm in respect of criteria b) and c) of ALP Policy HOU10, which provides for development of residential gardens. However, the proposal's conflict with HOU5, also brings the development into conflict with the fundamental locational requirements of ALP Policy HOU10 criterion a) and the Policy as a whole.

Other Matters

25. The appellant's undisputed evidence indicates that the Council can demonstrate a housing land supply of some 4.54 years and is therefore falling short of the requisite 5 year supply of housing land in the Framework. Even if the appeal site was previously developed land (PDL) the benefits of reusing a small amount of such land to deliver a single dwelling, including its contribution to boosting housing supply in the Council's area, would be small.

26. Conversion of the building to a dwelling would generate some very limited employment opportunities and spend in supply chains. Occupants would make a commensurately small contribution to using facilities and services in the wider area. Renewable energy generation would reduce carbon emissions. Water and energy could be used efficiently. These would deliver a small beneficial effect on the environment.
27. The appeal scheme would not be at risk of flooding and the Council found no harm or policy conflicts in respect of highway safety and parking, the character and appearance of the area including the National Landscape, heritage assets, air quality and the living conditions of nearby occupiers. Whilst I see no basis to disagree with that assessment, an absence of harm in these respects, including an absence of objections from nearby residents, does not weigh in favour or against the proposed development.
28. The evidence suggests that the internal floor space within the proposed dwelling would be just above that set out in the Nationally Described Space Standards for a 2 bed dwelling. The Council has not disputed the appellant's revised floor plan or the plan showing available headroom that were submitted with the appeal. I am satisfied that the modest internal accommodation on the first floor would not lead to unacceptable living conditions for future occupants and I find no basis to depart from the appellant's evidence on this matter. However, this is a neutral factor that does not weigh in favour or against the proposed development.
29. The evidence indicates that the appeal site lies within the zone of influence of the Stodmarsh Special Area of Conservation (SAC) and Ramsar site, which is subject to statutory protection under EU derived legislation in the Conservation of Habitats and Species Regulations 2017 as amended ("the Regulations"). The appellant's Nutrient Budget Assessment Report (NBAR) confirms that occupation of the proposed dwelling would increase nutrient deposition within the SAC, and it states that mitigation would be required to avoid potentially significant adverse effects on the nature conservation interests of the SAC. This would take the form of credits purchased from a strategic mitigation scheme and secured via S106 agreement or similar.
30. However, there is no mechanism before me to properly secure this contribution and therefore I cannot be certain that the proposed development would not harm the nature conservation interests of the SAC. Even if the development had been acceptable in all other respects, this is a determinative matter that would have directed me under Regulation 63(5) to refuse planning permission. Furthermore, the NBAR suggests the strategic mitigation scheme is currently paused, casting significant doubt over the future availability of mitigatory credits.
31. In the context of the Planning Practice Guidance¹, conditions cannot require the payment of money, and given the scale and nature of the development I find there are no demonstrable exceptional circumstances to justify securing a planning obligation by condition. For these reasons, I do not consider that the imposition of conditions could satisfactorily mitigate the development's effect on the SAC and make it acceptable. Nevertheless, as the appeal proposal is unacceptable for other reasons this matter does not alter the outcome of this appeal.

¹ Paragraph: 005 Reference ID: 21a-005-20190723 and Paragraph: 010 Reference ID: 21a-010-20190723

Planning Balance and Conclusion

32. The proposed dwelling would not be in a suitable location for housing and would harmfully undermine the Council's spatial strategy for housing growth, in conflict with ALP Policies HOU5, SP1 and SP2, the requirements of which are set out above. Although the proposal would not cause any other harms and would comply with other development plan policies, the conflict with the spatial strategy is an important matter that carries weight of a high order against the development. It is sufficient to bring the development into conflict with the development plan when read as a whole.
33. The Council is currently unable to demonstrate a 5 year supply of housing land and therefore Framework Paragraph 11.d)ii., would apply and planning permission should be granted unless 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.
34. The Government's objective is to significantly boost the supply of homes and the policies in the Framework seek to deliver a sufficient supply of homes. The appeal proposal could be delivered quickly to make a small contribution towards meeting the housing requirement of the area, and reusing a small area of PDL, albeit not in an urban area. Some small economic, social and environmental benefits would be delivered through construction and occupation of the development, consistent with those objectives of the Framework.
35. However, the proposal would conflict with the Framework's policies on promoting sustainable development in rural areas, including the requirement to avoid isolated homes in the countryside and locating housing where it would enhance or maintain the vitality of rural communities. Whilst opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the Framework requires proposals to prioritise sustainable transport modes to access services and facilities including walking and cycle movements. The proposed development would not achieve this, and future occupants would be heavily reliant on the private car to access nearly all services, facilities and employment. It would therefore conflict with the Framework's objectives for managing patterns of growth to prioritise sustainable modes of transport and locating development where it would help reduce greenhouse gas emissions.
36. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
37. The proposed development would be contrary to the development plan and there are no other material considerations, including the benefits of the proposal and the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the proposal is unacceptable and the appeal should be dismissed.

G Sylvester

INSPECTOR