



Appeal Decision

Site visit made on 18 March 2025

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/V2255/W/24/3350751

1 Broomhill Cottages, Hansletts Lane, Ospringe, Faversham, Kent ME13 0RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Roger Bishenden against Swale Borough Council.
 - The application Ref is 24/500654/OUT.
 - The development proposed is described as 'outline planning for 3 bedroom bungalow and double garage'.
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Decision

1. The appeal is dismissed and outline planning permission for a 3 bedroom bungalow and double garage is refused.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved. This includes matters relating to appearance, scale and layout. Nevertheless, plans have been submitted with the application which show a site layout. I have determined the appeal on the basis that the site layout plans are for illustrative purposes only.
3. The National Planning Policy Framework (the Framework) was revised, and the 2023 Housing Delivery Test results were published in December 2024. As these could affect the issues and matters in this case, the parties were invited to make further comments. Only the Council responded. My decision reflects the latest versions of these documents, and the response received on them.
4. The appeal is against the non-determination of a planning application. The Council's appeal statement indicates that it would have refused planning permission for reasons relating to: character and appearance, including impact on the National Landscape; future living conditions; effect on protected species; and impact on the Swale Special Protection Area (SPA). The main issues below are taken from the Council's appeal statement, with the SPA issue addressed under other matters.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area, including whether the proposal would conserve and enhance the landscape and scenic beauty of the Kent Downs National Landscape (formerly Area of Outstanding Natural Beauty);

- whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to traffic noise; and
- the effect of the proposal on protected species and their habitats.

Reasons

Character and appearance

6. The appeal site comprises land fronting Hansletts Lane in the open countryside. It is largely open and overgrown with some trees and hedges in and around the site. It lies within the Kent Downs National Landscape (NL) where great weight should be given to conserving and enhancing landscape and scenic beauty in accordance with the Framework. The site is separated from the grounds and buildings of a semi-detached pair of houses at 1 and 2 Broomhill Cottages by a field, and a landscape strip separates it from the M2 motorway to the north.
7. The site is within an area of fruit belt, characterised by its gently undulating landscape and open field system. The Council's Landscape Character and Biodiversity Appraisal SPD 2011 considers that the landscape structure is strong and intact, and it includes a guideline to conserve and enhance the NL. The Landscape Assessment for the NL seeks to protect the remote, rural quality of this landscape, including by ensuring that the location of new development fits with landscape character and existing settlement patterns. The natural, undeveloped appearance of the site contributes positively to the rural character of the area.
8. In an appeal for a previous similar proposal for this site¹, the Inspector found that notwithstanding the presence of the motorway, the vicinity of the site has good visual and landscape quality. This was derived from its openness, the presence of mature trees and hedgerows along Hansletts Lane, and the rural buildings, including the traditionally-styled Broomhill Cottages and a former Oast House, dispersed along the lane. This remains the case.
9. The proposal would introduce built development that would be outside the built confines of any village and unrelated to the pattern of existing traditional buildings along the lane, creating harmful sporadic development. The illustrative plans indicate that a significant and noticeable amount of built form would be created, comprising a large bungalow and double garage, where currently there is none, as well as a large hardstanding area. Thus, similar to the previous proposal, the appeal scheme would have an urbanising effect on open, undeveloped land, harming the rural character and failing to further the purpose of conserving and enhancing the natural beauty of the NL.
10. Therefore, I conclude that the proposed development would harm the character and appearance of the area and would not conserve and enhance the landscape and scenic beauty of the NL. This would be contrary to Policy DM24 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) where it requires proposals in the NL to conserve and enhance the special qualities and distinctive character of the NL. The proposal would also conflict with the Framework's policies for NLs.

¹ Appeal Ref: APP/V2255/W/17/3181426 'the previous scheme/proposal'

Living conditions

11. The M2 motorway lies close to the northern boundary of the site. At the time of my site visit, although only a snapshot in time, constant noise from motorway traffic could be heard at the site.
12. No acoustic appraisal has been submitted to consider the effects of traffic noise on future occupiers of the appeal scheme. In the absence of this, it is not possible to determine whether satisfactory living conditions could be achieved for future residents of the proposed house and any associated garden space.
13. Consequently, I conclude that there has been a failure to demonstrate that the proposed development would provide acceptable living conditions for future occupiers, with particular regard to traffic noise. This would be contrary to Policy DM14 of the LP where it requires proposals to not significantly harm amenity.

Protected species

14. The appeal site is located within the countryside. It is overgrown and part of it contains some well-established trees.
15. The proposal would result in new development on a site in a rural area containing trees and vegetation where protected species and their habitats may be present. The absence of any ecological assessment means that the impact of the proposed development on biodiversity cannot be determined.
16. Therefore, I conclude that it has not been demonstrated that the proposal would not have any adverse impacts on protected species and their habitats. This would conflict with Policy DM28 of the LP which seeks to conserve biodiversity, including by requiring appropriate surveys where it is likely that development sites are used by legally protected species, amongst other things.

Other Matters

17. The proposed development would be likely to have a significant effect, either alone or in combination, on The Swale Special Protection Area due to its location within 6km of the protected site. However, given my conclusion below, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

18. Paragraph 11(d) of the Framework is engaged as the Council can only demonstrate a housing land supply of 3.98 years against the required five years. In such circumstances, this states that development should be approved unless the application of policies in the Framework that protect areas of particular importance provides a strong reason for refusing the development. In this appeal, the application of the Framework's NL policies provides a strong reason to refuse the development. The proposal would also be contrary to Policies DM14, DM24 and DM28 of the LP.

19. Consequently, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed, and outline planning permission is refused.

A Wright

INSPECTOR