



Appeal Decision

Site visit made on 9 May 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/E2205/W/25/3358378

Greenluck Farm, Harris Lane, High Halden, Ashford TN26 3HN

- 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 & Mrs M Green against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/0647.
 - The development proposed is 3No 2-bedroom log cabin style dwellings, with associated parking and garden areas. New movable ground mounted solar panels to be installed in agricultural field.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The appellant has submitted a Preliminary Ecological Appraisal (PEA), Arboricultural Report (AR) and Biodiversity Net Gain Assessment (BNGA) with the appeal. These documents provide additional supporting information about but do not fundamentally change the development proposed. There has been an opportunity to comment on them, so no party would be prejudiced by my taking them into account.

Main Issues

4. The main issues are:
 - whether the location would be suitable for the proposed development, having regard to the spatial strategy for the area;
 - the effect of the proposal on the character and appearance of the surrounding countryside; and
 - whether the proposal adequately demonstrates the effect on ancient woodland, protected species and biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects.

Reasons

Suitable location

5. Policies SP1 and SP2 of the Ashford Local Plan 2019 (ALP) prioritise housing delivery in Ashford and its periphery and in rural settlements, according to spatial factors including accessibility to services, facilities and infrastructure. Windfall housing is supported where it is consistent with this strategy and other ALP Policies. ALP Policy HOU5 permits proposals for residential development adjoining or close to the existing built-up confines of various rural settlements, subject to compliance with all of six criteria. Elsewhere in the countryside, the Policy supports residential development only if the proposal is for one of five specific types of development, broadly consistent with those at Framework paragraph 84.
6. The appeal site is located on farmland, some distance from the built confines of the nearest villages of High Halden and Bethersden. There is no dispute it is within the countryside for planning policy purposes. There is also no suggestion the proposal complies with any of the five types of development in the second part of ALP Policy HOU5.
7. High Halden is the closer village. Pedestrian access from the appeal site would be via relatively narrow country lanes with no lighting or dedicated footways, or via unlit public footpaths across fields. Even if the village's services would be within walking distance for some, these routes would be unsafe for pedestrians after dark and/or in poor weather and very challenging for more vulnerable walkers such as children and older people. They would also be unappealing for those carrying any more than a few items of shopping. There is no dedicated cycle route or bus connection between the site and High Halden, or with Bethersden.
8. I therefore find the site would not be within easy walking distance of basic day to day services and it would not be possible to maximise the use of public transport, cycling or walking to access them. This is notwithstanding the bus service that links High Halden to larger settlements. I also find there would not be a genuine choice of transport modes, even allowing for the rural context, and future occupants would be reliant on the private car for most journeys. Consequently, the proposed development would fail to satisfy criteria b) and d) in the first part of ALP Policy HOU5. As all the criteria in that section must be met, the proposal would conflict with the Policy overall, whether or not it complies with the proportionality provision at criterion a). It would also conflict with the Framework's objective to promote sustainable transport.
9. The site's deep set back from Harris Lane means the proposed dwellings would be set well apart from the small number of existing houses on that road, including those at Beulah. There would also be very little spatial relationship between the new homes and the hamlets at Further Quarter and Middle Quarter. The proposed dwellings would therefore be isolated in the countryside, contrary to Framework paragraph 84. This would not be outweighed by the scheme's contribution to the vitality of rural communities, which would be modest given the scale of the scheme.
10. For the above reasons, I conclude the location would not be suitable for the proposed development, having regard to the spatial strategy for the area, contrary to ALP Policies SP1, SP2 and HOU5.

Character and appearance

11. The appeal site is within the Biddenden and High Halden Farmlands Landscape Character Area (LCA), which is described as undulating farmland with hedgerows, scattered farms and a small-scale field pattern in the Ashford Landscape Character Supplementary Planning Document. The site is in a small field, set well back from Harris Lane behind an area of ancient woodland (AW). Other small-scale fields and hedgerows surround the site, and little more than trees and fields can be seen from the nearby public right of way (PROW). The site and surrounding area are in many ways typical of the LCA in which they are located, and they contribute to the intrinsic character and beauty of the countryside, notwithstanding that they do not have designated landscape status.
12. The proposal would introduce residential buildings and gardens into this landscape, which would reduce openness, disrupt the field pattern and interrupt the visual relationship between the woodland and adjacent pasture. The dwellings, driveways, extensive parking areas and other domestic paraphernalia would look incongruous in the rural surroundings, notwithstanding the proposed single-storey, log-cabin style of building and potential to control materials via condition. Overall, key characteristics of the LCA and the rural setting of the AW would be greatly diminished when viewed from the nearby PROW, even if little of the development would be seen from the road.
13. The proposed landscaped buffer would provide a degree of screening in time, but this would not be sufficient to mitigate the harm to the field pattern, rural context of the AW and intrinsic beauty of the countryside noted above.
14. I recognise log-cabin style buildings at Beulah can be glimpsed through the woodland on the approach to the appeal site. Nevertheless, those buildings are much closer to Harris Lane and sited in proximity to existing structures around a shared access. Their formation is akin to that of a farmstead, even if their use is not agricultural. Consequently, their relationship to the surrounding countryside is materially different to that in the scheme before me, which would be physically and visually isolated and jarring in its context.
15. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the surrounding countryside. This is contrary to ALP Policies, SP6, ENV3a and ENV5, which together seek high quality design that responds positively to local character and demonstrates particular regard for landscape characteristics and features, including the pattern of field boundaries and woodlands and public rights of way. It is also contrary to the Framework, where it requires decisions to ensure development is sympathetic to local character including the surrounding landscape setting and to recognise the intrinsic character and beauty of the countryside.

Ancient woodland, protected species and biodiversity

16. As noted above, the appeal site adjoins an area of AW known as Bishops Wood. AW is an irreplaceable habitat and the Framework states development resulting in its deterioration should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
17. The access to the scheme would be via the existing track through the AW. In addition, the access road and spurs linking this track to the new dwellings would

be partly located within the 15-metre AW buffer zone. Given space is proposed for up to nine cars to park and the limited potential for alternative transport modes noted above, several vehicles could be expected to use the access arrangements daily to reach the development. These and other indirect impacts of human habitation, such as pollutants or domestic cats, could adversely affect the biodiversity and quality of the wood pasture and lead to deterioration of the AW.

18. The AR before me provides a very high-level overview of such potential impacts following the steps set out in standing advice from Natural England (NE). However, there is little pertinent technical evidence to substantiate its findings that the nature and scale of the proposed development would not have a significant impact on the AW. This absence of supporting data leads me to find the AR's conclusions in this respect unconvincing, notwithstanding proposed measures to mitigate impacts on the AW during construction. Consequently, in the absence of objective evidence to the contrary, I cannot be sure there would be no deterioration of the AW as an irreplaceable habitat. No wholly exceptional reasons or compensation strategy are before me. Bearing in mind the precautionary principle, the appeal should fail on this ground alone in accordance with Framework paragraph 193.
19. The PEA finds the site provides suitable terrestrial habitat for Great Crested Newts (GCN) owing to the presence of grassland, tree lines, adjacent woodland, two ponds very close by and numerous other ponds within 500 metres. GCN are a European protected species.
20. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."
21. The PEA finds the proposed development could result in the loss or significant disturbance of the GCN habitat, and it awards a red risk score using the NE rapid risk assessment for GCN. It therefore recommends a further Environmental DNA (eDNA) survey to determine the presence or likely absence of GCN in the landscape surrounding the site. Alternatively, it advises, the appellant could apply for a District Level Licence (DLL) without eDNA survey results.
22. Neither the recommended eDNA survey nor evidence of a DLL is before me. Consequently, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm to GCN, as required by paragraph 193 of the Framework; or whether such measures could be provided and secured. The proposal therefore has potential to result in significant harm to protected species and biodiversity. No exceptional circumstances have been demonstrated such that the required additional eDNA survey could be left to coverage by a planning condition.
23. Separately, the proposal is required to provide at least 10 percent BNG under the provisions of the Environment Act 2021. Having reviewed the BNGA submitted with the appeal, the Council is satisfied this could in principle be achieved if off-site habitat enhancements were carried out within the area of the field that is in the

blue line boundary for the application. However, the off-site element of the proposed BNG would need to be secured via a legal agreement and no such agreement is before me. Had the proposal been acceptable in other respects, this is a matter I would have raised with the main parties.

24. For the above reasons, I conclude the proposal does not adequately demonstrate the effect on AW, protected species and biodiversity or the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to ALP Policies ENV1 and ENV5, which are consistent with Circular 06/2005 and the Framework.

Other Matters

25. The Council accepts it cannot demonstrate a five-year supply of deliverable housing sites, so paragraph 11d) of the Framework is engaged. However, for the reasons set out above policies in the Framework that protect irreplaceable habitats provide a clear reason for refusing the development proposed. Therefore, according to paragraph 11d) (i) and footnote 7 of the Framework, the presumption in favour of sustainable development does not apply.
26. The delivery of three bungalows would nevertheless make a modest contribution to meeting housing needs in the area, boosting the supply of homes, including for older and/or disabled people. The development would also support the local economy during the construction process and through future occupiers' use of services and facilities. These benefits would accord with the Framework's social and economic objectives, and I give them moderate weight. BNG, if secured, would be another benefit, but I give this limited weight because of the uncertainty over the scheme's effects on irreplaceable habitats and protected species.
27. The Council has raised no concern with the effect of the proposal on highway safety, the capacity of local infrastructure or living conditions of neighbouring occupiers, or with living conditions for future occupiers. However, an absence of harm in these respects is a neutral factor. There is no pertinent evidence proposed levels of energy efficiency or provision for electric vehicle charging would exceed those required by other regulatory regimes, so these considerations do not add weight in favour of the development.
28. I have identified harms to the spatial strategy, character and appearance, ancient woodland, protected species and biodiversity, to which together I ascribe substantial weight. The collective weight of the benefits of the scheme would not be sufficient to outweigh this.
29. I recognise the appeal scheme is a resubmission taking into account issues previously raised by the Council, but the amendments would still have harmful effects for the reasons I have already outlined.

Conclusion

30. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter INSPECTOR