



Appeal Decision

Site visit made on 14 July 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/L2250/W/25/3361508

Former Village Hall, Stone Street, Stanford TN25 6DH

- 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 Martin Rose against the decision of Folkestone and Hythe District Council.
 - The application Ref is 24/0872/FH.
 - The development proposed is the demolition of the former village hall and construction of a new 3 bed detached dwelling with car parking, cycle storage and associated landscaping. Re-submission of application 23/0081/FH.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The second reason for refusal refers to Policy N2 of the Folkestone & Hythe District Places and Policies Local Plan 2020 (LP). However, the Council has confirmed that this is an error, with the correct reference being Policy NE2. I have considered the appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the integrity of Habitats Sites;
 - whether the proposed development would result in the unjustified loss of an existing community facility; and
 - whether the proposal would meet the requirements for the provision of biodiversity net gain.

Reasons

Habitats Sites

4. The appeal scheme proposes a house on a site within the River Stour catchment, which runs into the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. The Habitats Regulations¹ require that, where a project is likely to have a significant effect on a Habitats Site, either alone or in combination with other projects, the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives. The effects arising from the proposal need to be

¹ Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations)

considered in combination with other development in the area and adopting a precautionary approach, irrespective of the site's history of use.

5. The SAC and SPA are wetland sites comprising open water bodies, reedbeds, grazing marshes and alder carr. The SAC is home to a sizeable population of Desmoulin's whorl snail. The SPA provides wintering and breeding habitats for important assemblages of wetland bird species, particularly wildfowl and waders. The sites' conservation objectives are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the habitats, the supporting processes on which the habitats rely, and the population and distribution within the sites of each of the qualifying features.
6. Wastewater from residential development contains nitrogen and phosphorous, which are high in nutrients. In freshwater habitats and estuaries, increased levels of these nutrients can speed up the growth of certain plants, disrupting natural processes and impacting wildlife, through the process of eutrophication. This damages these water dependent sites and harms the plants and wildlife that are meant to be there.
7. Natural England (NE) indicates that nutrient enrichment is impacting on the protected habitats and species of the Stodmarsh Habitats Sites. Nutrients entering the River Stour come from many sources and the appeal site is a significant distance from the protected sites. Nevertheless, NE identifies the potential for residential development in the Stodmarsh catchment to exacerbate these impacts, thereby causing a risk to the potential future conservation status of these sites.
8. The appellant's Nutrient Assessment (NA) indicates that the proposal would increase annual nutrient loads by 0.07kg of phosphorous and 3.63kg of nitrogen up to 2030 based on water usage of 120 litres per person per day. Thereafter, due to changes to outputs from wastewater treatment works (WwTW), the increase in annual nutrient loads would be 0.04kg of phosphorous and 1.36kg of nitrogen. Whilst these could be further reduced with water saving measures, the proposal would nevertheless increase levels of nitrogen and phosphorous entering the protected sites.
9. It is stated in the NA that the local agriculture industry is considering ways to reduce runoff and the use of nutrients. However, the implications for the appeal scheme have not been explained. The appellant would be willing to subscribe to a regional mitigation strategy which could involve the creation of new wetlands to reduce nutrient loads in the River Stour. However, there is no mechanism before me to link the appeal scheme with a specific project.
10. The NA also refers to the potential solution of converting a septic tank to a modern package treatment plant on another property in the catchment. Further, there is reference to a recent change to Natural England's guidance regarding the use of package treatment plants and septic tanks, and to the recent planning permission for four new houses nearby². That scheme included provision to collect and treat wastewater on site before being tankered off site and disposed of at a WwTW outside the Stodmarsh catchment area. Whilst it is stated that the appeal proposal includes similar provision, no such details have been provided, nor have the implications of such an approach been assessed as part of the NA.

² Planning application ref: 23/1925/FH

11. Therefore, I have not been directed to any specific regional mitigation strategy, and the scheme does not include mitigation measures to achieve nutrient neutrality. Thus, even though the nutrient discharges from the new dwelling individually would be very small, I cannot be confident that the proposal, in combination with other plans and projects in the River Stour catchment, would not have a significant adverse effect on the integrity of the Habitats Sites.
12. The appellant refers to an appeal allowed for a dwelling in Canterbury³. In that case, the scheme was predicted to reduce the amount of nitrates and increase the quantity of phosphates received at the WwTW, with the Inspector finding that the proposed development would be unlikely to meaningfully increase nutrient loading. However, the current proposal would increase annual nutrient loads of both nitrogen and phosphorous, so it is not comparable to the Canterbury case. There is no inconsistency between my findings and the Inspector in that appeal.
13. Consequently, and as directed by Regulation 63(5) of the Habitats Regulations, permission must not be granted. The proposal would also conflict with Policy NE2 of the LP where it requires development to safeguard and protect SACs, SPAs and Ramsar sites and not result in significant adverse effects on them.

Community facility

14. Under Policy SS3 of the Council's Core Strategy Review March 2022 (CS), development must not result in the loss of community or social facilities unless it has been demonstrated that there is no longer a need, or alternative facilities are made available in a suitable location.
15. Policy C2 of the LP sets out requirements for development leading to the loss of an existing community facility. It requires demonstration that there is no longer a demand for the facility within the locality, supported by evidence that the premises have recently been actively marketed for at least 12 months. This marketing needs to show a sale or rental price that was realistic for the existing use, supported with a written valuation from a commercial estate agent.
16. The appeal site contains a village hall. In considering whether this is an existing community facility for the purpose of applying the development plan policies, I have regard to its lawful use, condition, when it was last used, why any active use has ceased and the community interest in the facility.
17. The proposed dwelling would replace the building formerly used as a village hall. The Village Hall Committee (the committee) had been considering the future of the village hall since at least 2002. Due to the state of the building, by September 2007 the hall was closed for use and has not been used since. A subsequent structural report later that year indicated that structural problems with the building had become evident, and it listed extensive works needed to bring the building up to modern standards. The structural engineer considered that it would be better to demolish the existing hall and replace it with a modern purpose-built structure better suited to its use.
18. Given the results of the structural report, in 2007 the committee considered that the building should be demolished. It sought to raise funds for a replacement hall and later explored options for purchasing another site for this purpose. However,

³ Appeal ref: APP/J2210/W/21/3276978

these did not come to fruition and by 2019 the committee had received an offer from a local builder to purchase the site with plans to demolish the hall and erect a dwelling. In March 2020, there was a unanimous vote to sell the village hall at auction at a committee meeting attended by residents, with the chairman having stated that the vision for the village is that the committee finds a new site and builds a new hall. This decision was then endorsed by Stanford Parish Council later that year. An interested party queries the validity of the subsequent auction, but this is a legal rather than a planning matter.

19. In terms of CS Policy SS3, the Parish Council indicates that there is an alternative to the village hall, with the Council making a room available on their property at the former Folkestone racecourse for Parish Council meetings and some other community activities. Although this cannot be hired out on a commercial basis, the neighbouring parishes have village halls available for hire. In due course, the Parish Council states that it is promised a new community facility in the proposed Otterpool Park development.
20. There was a mixed response to a recent parish survey asking residents on how to spend the proceeds from the 2020 sale of the site. 27% of respondents wished to save the money from its sale and many others favoured some form of community benefit, including converting the church or funding church events, though only 1% voted to build a new hall.
21. Clearly, there has been a long history of discussions on the future of the site. The Council and the appellant agree that the building has not been used as a village hall since 2007. Although it has deteriorated further due to the recent removal of roof tiles, it is evident from the structural report that the building has not been fit for use since 2007.
22. The Council states that court judgments have outlined four tests for establishing abandonment, with the burden of proof resting with the appellant. Regardless of whether the previous use was abandoned, LP Policy C2 relates to existing facilities. I note the recent appeal decision at Little Hemsted where the Inspector stated that the planning system should be plan-led⁴. Nevertheless, in the current case, given the length of time since the building was last used as a village hall due to its structural condition, the proposal would not lead to the loss of an existing community facility. Therefore, the policy requirements relating to demand for the facility and active marketing for at least 12 months do not apply in this instance.
23. Consequently, I conclude that the proposed development would not result in the unjustified loss of an existing community facility. This would comply with Policy SS3 of the CS and Policy C2 of the LP.

Biodiversity net gain

24. There is now a requirement under the Town and Country Planning Act 1990 for developments to provide 10% biodiversity net gain (BNG). There are specific exemptions from this and the general BNG condition does not apply to development subject to the de minimis exemption. This comprises development that does not impact a priority habitat and impacts less than 25 square metres of any habitat or 5m of any linear habitat.

⁴ Appeal ref: APP/L2250/W/24/3351509

25. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires a statement setting out why a permission would or would not be subject to the condition, with reasons for that belief. The Planning Statement outlines that the proposal would not result in the loss of priority habitat. It also refers to proposed landscape enhancements, including native hedgerows and tree planting along some boundaries, which it states would achieve significant BNG. The application was not accompanied by further information justifying the de minimis exemption from BNG.
26. However, regardless of whether the scheme would be exempt from the statutory requirement for BNG, the appeal was accompanied by metric information showing that the proposal could achieve at least 10% BNG. The Council accepts that the issue can be resolved and suggests a condition requiring details of ecological enhancements.
27. Therefore, I conclude that the proposed scheme would meet the requirements for the provision of BNG.

Other Matters

28. The National Planning Policy Framework (the Framework) seeks to significantly boost housing supply and highlights the important contribution small and medium sized sites can make. It states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes which should be approved unless substantial harm would be caused. It also seeks to maintain the vitality of rural communities.
29. Using the results from the 2023 Housing Delivery Test, the Council's housing delivery rate was 83%, above the 75% figure set out in the Framework. However, the Council can only currently demonstrate a 3.1 year supply of deliverable housing sites against the required five years which triggers the circumstances in paragraph 11(d) of the Framework. Nevertheless, I have concluded that the proposal is likely to have a significant effect in combination with other developments on the integrity of Habitats Sites. Therefore, paragraph 195 of the Framework states that the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
30. The proposed scheme would replace an unused building in poor condition with a new family home in a village location. There is support for the proposal from the Parish Council, a ward councillor and some local residents. However, the benefits and local support do not outweigh the proposal's adverse effect on the integrity of protected Habitats Sites.
31. The Council did not find harm or development plan conflict in relation to several other matters, including character and appearance, heritage assets, protected species, living conditions, flood risk, parking and highway safety. Nonetheless, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
32. The appellant has expressed general dissatisfaction with the Council's handling of the application, but this is a matter between those parties and does not in this instance have any bearing on my determination of this appeal.

Conclusion

33. The proposal does not meet the Habitats Regulations requirements, and it conflicts with the development plan. The material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan and Habitats Regulations. The appeal should therefore be dismissed.

A Wright

INSPECTOR