



Appeal Decision

Site visit made on 5 November 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2025

Appeal Ref: APP/E2205/W/25/3369775

Newlands Farm, Charing Heath Road, Charing, Kent TN27 0AL

- 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 Miss Christina Law against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/2004.
 - The development proposed is conversion of barn into a residential dwelling and demolition of garage, erection of chicken and bat house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal scheme includes the conversion of an existing barn into a residential dwelling and the erection of a chicken and bat house. The Council takes no issue with the latter aspect of the scheme, and I see no reason to do so. Accordingly, the main issues in this appeal are:
 - Whether the site is in a suitable location for the proposed development having regard to local and national planning policies and access to services and facilities;
 - The effect of the proposed dwelling on the character and appearance of the area; and
 - The effect of the proposed development on Stodmarsh Lakes.

Reasons

Location

3. The appeal site (the site) includes a barn (the barn) and garage located just under a mile from the centre of Charing, the nearest village. The connecting route is over Pluckley Road and Charing Heath Road. The former has pavements and street lighting, but the latter lacks them. There are no dedicated cycle lanes on either, and I have no evidence that public transport is available.
4. Whereas Pluckley Road is largely lined with residential development and has an open feel, Charing Heath Road is less developed and more secluded. It narrows in places and much of it is enclosed by dense greenery, through which can be seen open fields beyond to the south and, in places, to the north. It is likely to be very dark at night, and on parts of the road dense hedgerows and embankments make it difficult for pedestrians to step off the roadway when vehicles are passing.

5. The appellant refers to the availability of footpaths over local fields, but I have very little details about them, save that they appear unlit and unmade, giving me little reason to think they are passable after dark or in winter.
6. The National Planning Policy Framework (the Framework) describes the purpose of the planning system as being “to contribute to the achievement of sustainable development”, an aim containing an environmental objective of mitigating and adapting to climate change. This includes moving to a low carbon economy achieved, in part, by the promotion of walking, cycling and public transport. Paragraph 164 requires new development to avoid increased vulnerability to the range of impacts arising from climate change.
7. Policy SP1 of the Ashford Local Plan (2019) (the Local Plan) directs development towards accessible and sustainable locations, and promotes the use of sustainable transport. Policy HOU5 addresses housing in the countryside. The first part of this policy supports residential windfall development if it is near any of the settlements listed in the policy, including Charing, and where six further criteria are satisfied. These include the site being within easy walking distance of basic day to day services in a settlement, and/or having access to sustainable transport. Insofar as the location of the proposed development is concerned, the Local Plan and the Framework are broadly aligned.
8. The distance from the site to Charing is one that most people could walk or cycle. The conditions along Charing Heath Road, however, would discourage most people from doing either, particularly in poor weather, after dark, if accompanied by children, or if carrying heavy shopping. I recognise that the appellant is familiar with local roads and the requirements they impose, but the proposed dwelling may be occupied by others in future, who may be less confident in that regard.
9. Overall, occupiers of the proposed dwelling would be highly likely to depend on the private car for day-to-day activities. The appeal scheme does not therefore accord with the first part of Policy HOU5, which requires development to be within easy walking distance of basic day to day services, and/or have access to sustainable methods of transport.
10. The second part of Policy HOU5 supports residential development in the form of the re-use of redundant or disused buildings leading to an enhancement to the immediate setting. This is consistent with paragraph 84(c) of the Framework. There is no dispute between the main parties that the barn is a redundant or disused building for the purposes of the policy. I see no reason to take a different view. The matters before me, therefore, are whether the appeal scheme entails the re-use of the barn and, if so, whether the appeal scheme would lead to an enhancement to the immediate setting.
11. On the first point, the Council contends that the appeal scheme involves a substantial rebuild rather than a re-use of the barn and cites *Hibbitt*¹ in this respect. That case concerned Class Q, Part 3, Schedule 2 of the General Permitted Development Order (GPDO), which allows the change of use of agricultural buildings to dwellings along with the building operations reasonably necessary to do so. The appeal site barn does not appear to be an agricultural building, but the pertinent point in *Hibbitt* is that a conversion is different to a rebuild.

¹ *Hibbitt v SSHCLG* [2016] EWHC 2853 (Admin)

12. Whilst Policy HOU5 uses the term “re-use” rather than “conversion”, the appellant does not contest that rebuilding the barn would conflict with the policy. I see no reason to view matters differently and focus on whether the appeal scheme is a “rebuild” or a “re-use” of the barn.
13. Neither term is defined in the Framework or the Local Plan. Neither document specifies that, in order to benefit from policy support, redundant or disused buildings in the countryside must be capable of re-use without any work being done to them at all. Indeed, given that buildings in such condition are likely to be few and far between, it is not obvious that the policy approach is intended to be that restrictive. Overall, it seems reasonable for the term “re-use” to encompass some work being undertaken to the subject building.
14. At the same time, the term “re-use” has been chosen for the policy rather than “conversion”, as found in the GPDO. To my mind, re-using a building involves doing less work to it than converting it. As such, if a proposal appears to comprise a rebuild rather than a conversion, it is also very likely to amount to more than a re-use.
15. In *Hibbitt*, the developer sought to convert an open sided steel framed structure with a monopitch roof. It was proposed to retain the steel frame, roof, and floor slab, and use structural infill panels to construct walls and a ceiling within the existing frame. Existing steel box profile cladding, some of which was already in place, was to be used to clad the front and sides along with the insertion of windows and doors. These works were found to comprise a rebuild rather than a conversion.
16. The appeal site barn is a relatively simple structure, essentially comprised of a primary steel frame forming a pitched roof and horizontal columns. The spaces between these columns are largely filled by hollow block and precast concrete walls rising part-way up the elevations. Above that, the walls and roof are formed of corrugated sheeting.
17. The appeal scheme includes removing all the corrugated sheeting, taking the barn back to the steel frame and masonry walls. Thereafter, timber panels and external insulation would be affixed to the frame, which would be reinforced, before timber wall cladding and a standing seam metal roof were installed.
18. The appeal scheme is comparable to the proposal in *Hibbitt*, insofar as both involve taking an existing building back to a state where its structural skeleton is largely exposed, before installing new walls. Indeed, the appeal scheme goes further than the *Hibbitt* proposal in that it involves a new roof and new external wall materials and finishes. In addition, a number of large, glazed openings would be formed.
19. Even setting aside the works that may be required to strengthen the structure and foundations of the building, and the rearrangement of an internal mezzanine I find that, given the similarity to the works in *Hibbitt*, the appeal scheme amounts to a rebuild. As such, it is more than, a different to, the re-use of the barn. Indeed, in terms of both its construction and its appearance, the barn would become a substantially different building, rather than much the same one but in a different use. I find that the terms of Policy HOU5 would not be satisfied.

20. Given the above, whether the scheme would lead to an enhancement to the immediate setting does not stand to be considered. The appeal site is not in a suitable location for the proposed development having regard to local and national planning policies and access to services and facilities.

Character and appearance

21. The barn is only partially visible from the public highway but can be seen from the appeal site and from the land around it, including the donor dwelling. Whilst it has no evident agricultural history, given its pragmatic, functional design and its largely undeveloped setting, the barn nevertheless has a somewhat agricultural appearance and character. This is not out of place in the wider area, which includes arable land along the south side of Charing Heath Road and on either side of Hook Lane.
22. The appeal scheme would largely erase the existing agricultural character of the barn, replacing it with an overtly residential one. However, the local area includes a range of residential dwellings with no apparent agricultural connection. These are a prominent enough feature of the area to form a significant part of its character. In that regard, though it would increase the extent of residential development in what is a largely undeveloped and rural setting, the proposed dwelling would not introduce anything fundamentally new or unusual to the area.
23. The barn is an established feature. Whilst its appearance would change significantly as a result of the appeal scheme, its basic shape and presence in the landscape would not. The scheme introduces very little that is harmful in that respect. Views of the barn from the road are so limited that the appeal scheme would, in any event, have a negligible effect on the public sphere.
24. The barn can be seen from the appeal site and surrounding land. It is not an attractive building. The agricultural element of its character is borne of its practical appearance, rather than any traditional or vernacular traits, and it has a prefabricated feel that would not be out of place on an industrial estate. As such, the change in the appearance of the barn would not be to the detriment of the immediate setting. Whilst the appeal scheme would result in additional domestic paraphernalia, lighting, movement, and activity, these would be limited by the modest scale of the scheme and would not evidently be more noticeable than the lawful activities the barn may support.
25. Overall, I find that the appeal scheme would not harm the character and appearance of the area, and complies in that respect with Policies SP6, HOU5, and ENV3a of the Local Plan.

Stodmarsh Lakes.

26. The appeal site is in the Stour River catchment area, where Natural England advise that developments such as that proposed in the appeal may contribute to the deterioration of the Stodmarsh Lakes, a designated Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require me to undertake an Appropriate Assessment, and the appeal scheme must show nutrient neutrality, i.e. that increased levels of nitrogen and phosphorus would not be discharged into the Stodmarsh Lakes.

27. As part of the application a Nutrient Neutrality Statement (2024) was submitted. This proposed upgrades to septic tanks, though further details were not provided to the Council's satisfaction. In the appeal, the appellant has focused on the purchase of nutrient neutrality credits, an approach predicated on a S106 legal agreement. No S106 agreement is before me, but the appellant contends that the matter can be addressed by use of a planning condition.
28. The Planning Practice Guidance (PPG) states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. It goes on to say that in exceptional circumstances a negatively worded condition may be appropriate where there is clear evidence that the delivery of the development would otherwise be at serious risk. Notwithstanding that I have found the location of the appeal site to be unsuitable for the proposed development, it is not clear to me that delivering the appeal scheme would be at risk if the appeal were dismissed due to the absence of a S106 agreement; I see no reason why a resubmission that included a finalised agreement could not address that issue.
29. Overall, the use of a negatively worded condition would be contrary to the PPG and inappropriate. I would therefore not impose one in the event of allowing the appeal. As such, and in adopting a precautionary approach, I am unable to rule out any significant effects resulting from the proposal, alone or in combination with other developments, which would be harmful to the integrity of Stodmarsh Lakes.
30. The appeal scheme would conflict with the Habitats Regulations and paragraph 193 of the Framework, which requires that development which would have an adverse effect on the integrity of protected sites should not be permitted, and that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

31. I appreciate that the appellant has a longstanding family tie to the land, and that the appeal scheme would benefit their family life. There is no suggestion, however, that a personal permission is sought. Ultimately, I must assess the appeal scheme on its merits against the relevant policies, rather than in the context of its personal significance to the appellant.

Planning Balance

32. The Council accepts that it cannot demonstrate a five-year supply of housing land, and states that the provisions of paragraph 11(d) of the Framework are therefore engaged. I am mindful that those provisions are not engaged where the application of policies in the Framework that protect areas or assets of particular importance, including those relating to habitats sites and/or SSSI's, provides a strong reason for refusing the development. Even so, given the approach taken by the Council I shall proceed in the first instance to assess whether the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits. In the absence of details as to the extent of the housing land shortfall, I shall presume it to be significant.
33. The appeal scheme would not harm the character and appearance of the area. It would also not, however, provide affordable housing, nor be in a sustainable location. In the latter respect, the scheme would not be part of an effective use of

land. The Framework requires me to have particular regard to key policies for directing development to sustainable locations, and is clear that where significant harm to biodiversity cannot be avoided, adequately mitigated, or compensated for, then planning permission should be refused. These considerations weigh significantly against the appeal scheme.

34. I recognise that the appeal scheme would result in an additional dwelling that could be built quickly, helping towards undersupply in the Borough, and supporting the wider Governmental aim of significantly boosting housing supply. Also, a mix of temporary and lasting economic and social benefits would accrue from the construction phase and residential occupation respectively. Whilst these benefits attract positive weight in my determination, they are nevertheless modest, owing to the small scale of the scheme.
35. Overall, the harm the appeal scheme would cause in terms of its unsuitable location, and the potential it has to harm the integrity of the Stodmarsh Lakes would significantly and demonstrably outweigh the benefits identified above. It is not necessary, therefore, for me to consider whether the above provides a strong reason for refusal.

Conclusion

36. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

A Knight

INSPECTOR