



Appeal Decision

Hearing held on 25 November 2025

Site visit made on 25 November 2025

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Appeal Ref: APP/V2255/W/25/3371490

Callum Park, Basser Hill, Lower Halstow ME9 7TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr John McGee, Calpark Estates Ltd. against the decision of Swale Borough Council.
 - The application Ref is 25/500838/OUT.
 - The development proposed is demolition and removal of redundant stable yard and riding arena and construction of three self-build dwellings with associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline, with matters of appearance, landscaping, layout and scale reserved for future consideration. A layout plan was provided, which is described as illustrative, and I have treated it as such.
3. The Council has confirmed that as a result of the information provided in the submitted Flood Risk Assessment, the third reason for refusal relating to surface water flooding is withdrawn. I can find no reason to take a different view to the Council and therefore I will not deal with this matter as a main issue.

Main Issues

4. The main issues are:
 - whether the proposed dwellings would be in a suitable location for new housing with particular regard to the Council's settlement strategy and the accessibility of services and facilities; and
 - the effect of the proposal on employment provision and community facilities within the area.

Reasons

Location

5. The proposal includes the provision of three self or custom build (SCB) dwellings. The appeal site comprises a metal clad building, an equestrian manege and a range of part brick, part timber clad stable buildings. To the east is the main house and to the north is an area where construction is underway on nine SCB dwellings.

A further two SCB dwellings also have permission further north. Surrounding this existing development are paddocks, which make up the remainder of the estate.

6. Policy ST1 of the Bearing Fruits 2031: The Swale Borough Local Plan Adopted July 2017 (LP) states that one criterion amongst others, in support of delivering sustainable development, is that proposals will, as appropriate, accord with the LP settlement strategy. Policy ST3 of the LP sets out the settlement strategy and states that in the open countryside, development will not be permitted, unless supported by national planning policy and it is demonstrated that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Policy ST5 of the LP reinforces the approach set out under Policy ST3, identifying Sittingbourne as a main urban centre which is the primary focus for growth.
7. Whilst not referred to on the Council's decision notice, Policy CP2 of the LP is referred to by both parties in the written submissions and it was discussed at the hearing. Consequently, I shall consider it also. Policy CP2 aims to achieve alternative access to all services through promoting access to sustainable forms of transport, particularly bus, cycle and rail transport and by providing integrated walking and cycle routes, amongst other things.
8. The appeal site is removed from the built up area of the nearest settlement of Lower Halstow and there is no dispute between the parties that whilst the appeal site is not isolated, it is located in the open countryside for the purposes of the development plan. As such, there is no support under the settlement strategy for development at the appeal site, unless the criteria set out under Policy ST3 are met, including that there is support from national planning policy.
9. There are some limited services and facilities in Lower Halstow, including a primary school, public house, shop, village hall, playing fields and church. However, the appeal site is removed from the village, with the main vehicular route being a narrow country lane with no separate pavement or streetlights. Therefore, whilst the distance would not be overly far, given the nature of the road network, I find that walking along this route would not be a particularly safe or attractive option. There are Public Rights of Way that run alongside the appeal site, into Lower Halstow, which would provide alternative pedestrian access. However, during poor weather or in the dark, these routes would not be a suitable option for many.
10. A cycle ride to Lower Halstow would be a relatively short distance, but given the nature of the road conditions it would not be attractive for many, being even less so during the winter months or in the dark. It is asserted that Newington and Sittingbourne railway stations are accessible by cycle within 20-30 minutes, but again, the conditions of the local road infrastructure lead me to find that this would not be a realistic or inviting option for the majority of people. I am told that there is a bus service serving Lower Halstow which would provide transportation to local railway stations and other settlements. However, I do not have any specific details of the frequency of such services, and future occupants would still need to reach the village to access the bus service.
11. The appellant asserts that the definition provided in the National Planning Policy Framework (the Framework) for sustainable transport modes is wider than that

provided for under Policy CP2 of the LP, given it also refers to ultra-low and zero emission vehicles and car sharing. Electric vehicle charging facilities would be provided as part of the development, although there is no certainty that future occupants would use ultra-low and zero emission vehicles. Given the limited number of dwellings that would be located on the wider site, the opportunities for car sharing would also be constrained, and I do not consider that this would significantly reduce the reliance on privately owned vehicles or journeys by car.

12. Overall, I find that given the nature and condition of both the road infrastructure and pedestrian routes and the limited evidence before me on public transport options, it is likely that future occupants would be reliant on the private car to access day to day services and facilities.
13. The proposal would therefore not accord with Policy CP2 of the LP, the aims of which are set out above. Even when recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I have found that the appeal site location would have limited potential to promote the use of sustainable transport options.
14. I also find that the proposal would conflict with the aims of Policies ST1 and ST3 of the LP which require development to be located in accordance with the settlement strategy. I will return later in my decision to whether there is support from national planning policy that would override the general approach set out in the settlement strategy in this case. In conclusion, on this main issue I concur with the findings of the Inspector who dealt with the adjacent appeal scheme¹ for two SCB dwellings.

Employment use

15. Policy DM3 of the LP states that planning permission for residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable.
16. Prior to the approval of planning permission² in 2020, a larger riding school business was operated by the appellant on the wider site. The redevelopment scheme approved in 2020 included the provision of nine SCB homes, providing that there was re-provision of a riding school facility of a smaller scale. The new building and manege that formed part of this approved scheme have been constructed, however, the appellant states that due to the pandemic, the customer base was eroded, many equines had to be sold and operating costs were significantly higher than forecasted, which has meant the riding school has not reopened. It is asserted that the Ukraine conflict also resulted in costs increasing, meaning that the proposed business model for the riding school is no longer viable. The appeal scheme before me now would result in the total loss of the riding school use and in its place the provision of three SCB dwellings.
17. Given the planning history of the site including the role of the smaller riding school facility providing a significant part of the justification for the residential development on the wider site in a rural location, I consider that careful consideration must be given to the complete loss of the riding school use, and to ensure successive

¹ APP/V2255/W/24/3339042

² Council Ref: 20/501002/OUT

applications do not result in the further erosion of rural employment uses without sufficient justification, a clear policy objective of Policy DM3 of the LP.

18. The Council suggested at the hearing that Policy DM3 is interpreted as the demonstration of no demand leads to a use being undesirable or unsuitable. However, in my view the policy sets out two different tests. The first being that no demand for such a purpose is demonstrated and the second being that the use would be undesirable or unsuitable. This means that providing one of those tests is adequately evidenced, then the loss of the rural employment use to residential could potentially be supported, subject to other planning considerations.
19. Marketing is not specifically referred to as a requirement of Policy DM3. Paragraph 7.1.13 of the LP justification text identifies that evidence of demand should include the results of efforts made to market the building. Whilst the justification text for a policy does not override or add to the content of the policy itself, it can offer useful description and/or explanation. I find that in the case of demonstrating the demand for a site or building, marketing provides useful evidence which tests the market rather than relying on assumptions. However, I do agree with the appellant that marketing is not necessarily useful in cases where it is asserted that a use is undesirable or unsuitable.
20. I note that there have been several riding schools which have closed in the local area, that those schools that remain open had space for riding tuition during a period in 2025 and that there has been a national shift in the sector overall. The appellant asserts that the use as a riding school would not be financially viable for themselves at the current time, based on a scale of operation significantly less than what was identified in the submissions which led to the 2020 permission. This further reduction in scale is not clearly evidenced in comparative terms, against what was justified in 2020 to fully understand why a different approach is being used to demonstrate current viability.
21. The appellant also contends that the appeal site would not be financially viable for other operators using the site as a riding school, given there would be additional operating expenses, capital expenditure and utility costs. There is no evidence before me which questions the financial projections, but also, there are no other business models put forward that provide details of alternative ways of running such a business, including operating at the scale that was identified in the previously approved scheme and for which the new building, manege and existing stables were intended for. The new building and manege have been recently completed and are in good order. Whilst the existing stables would require some investment, they appeared substantial at the time of my site visit, and there is no evidence before me as to the works required to ensure the continued use of them.
22. It is also contended that the riding school use would not be operationally viable for anyone else to operate from, mainly due to the appellant removing all grazing land from the operation and a significant part or all of the building that was approved for the riding school use, which is currently being used as an 'estate hub building'. I also understand that there would be no on site accommodation for other operators. I acknowledge that the welfare of equines when running such a use is paramount to the success of such a business. However, by removing the opportunity for equines to graze in the adjacent paddocks, this does significantly undermine the current approved use which could reduce its attractiveness and thus the demand for it from other operators.

23. I note that the submitted Commercial Uses and Viability Report considers a number of other potential uses which it finds would all be unsuitable, unviable or undesirable at the appeal site. However, there has been no marketing carried out to demonstrate that there would be no demand for the facilities that would be available for the current approved use, or any alternative employment or community uses to test these assertions. Without appropriate marketing, potential operators or community groups would not have any real opportunity to identify a demand for the use of the appeal site for an employment or community use.
24. At the hearing it was suggested that the cost of marketing would be unviable in this case, however, there is no evidence of the cost of marketing that was quoted or details of comparative quotes for such a service, or any specific evidence as to why the costs of marketing would be so significant in this case. I understand that the appellant has been frustrated by the lack of engagement by the Council during the planning application stage in terms of identifying the scope of the marketing that needed to be done in support of the submission. Nevertheless, this does not mean that it is not necessary to carry out marketing in order to demonstrate that there is no demand.
25. I understand that the appellant and his wife are employed on a full time basis at the estate, managing and maintaining the wider site and looking after the retired horses and ponies and that contractors are employed when needed, meaning that there will be a certain level of employment retained at the site. The submitted Business Statement also refers to the diversification of the estate, but there are no particular details about any diversification schemes that would benefit the rural economy in the longer term.
26. I find that it is highly likely that this existing level of employment at the estate would be retained in any case, given maintenance and management works would be likely to continue. The construction of the proposed dwellings would bring some benefits to the rural economy, particularly if smaller builders and contractors are used, but these would be time limited during the construction phase only. These factors would not override the loss of the approved use of the appeal site which if operational would be likely to provide additional rural employment opportunities.
27. With regards to whether the approved use would represent an unsuitable or undesirable use, the appellant contends that other operators using the site alongside the owners of the estate would become inherently dangerous and impractical and that there would be detrimental effects on the living conditions of the occupants of the adjacent dwellings.
28. However, it is not clear why this would be the case. Whilst the initial section of the access road would be shared, the appeal building, manege and stables are accessed from an area of hardstanding which would be separate from the main house and the adjacent residential development. Even if the new building were to be used in part for estate management, given the nature and scale of that use, to my mind it could operate alongside subject to effective management arrangements. I cannot see what significant conflict there would be with an additional user or visitors to the site, particularly given the scale of the appeal site, which would limit its use.
29. In terms of the effect on the living conditions of the future occupiers of the adjacent residential development, the amended riding school provision was approved as

part of the wider scheme, which included the adjacent SCB dwellings. It does not appear that the undesirability or unsuitability of the riding school use was a critical issue that was raised by either of the parties, when that previously approved scheme was submitted or considered.

30. The manege is set back from the adjacent approved dwellings and the existing 'estate hub building' would remain, providing screening and separation to the manege area. Whilst undoubtedly some employment uses found in rural areas would result in noise and disturbance, it is not necessarily the case that all other potential employment or community uses would be undesirable or unsuitable in an area adjacent to housing. I am not convinced that the approved use or other possible employment or community uses would necessarily harm the living conditions of nearby occupiers.
31. In conclusion on this matter, even given the limitations of the site, it is reasonable to expect the appellant to demonstrate that there is no demand for an employment or community use at the appeal site. In my view, the clearest way of demonstrating this would be via an appropriate marketing scheme, which has not been carried out in this case. I have found that it has not been demonstrated that the existing approved use would be undesirable or unsuitable in this rural context. I am also not satisfied that it has been demonstrated that other possible employment or community uses would also be undesirable or unsuitable.
32. Consequently, I find that the proposal would result in the loss of a rural employment use which would have a detrimental effect on employment provision within the area. This would be contrary to the aims of Policy DM3 of the LP, which, amongst other things, seeks to resist the loss of rural employment and community uses, unless there is no reasonable prospect of the site being used for such purposes.

Other Matters

33. The Grade II Listed Little Barksore Farmhouse (LB) is located near to the appeal site. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the LB and its setting. The significance of the LB lies in its architectural and historic interest as a rural dwelling. The character and appearance of the surrounding rural area also contribute to its significance. There would be a significant level of separation between the proposal and the LB along with screening provided by intervening vegetation. As such, the proposal would not result in harm to the setting of the LB, which would ensure its significance is preserved. This would therefore be a neutral consideration that would weigh neither for nor against the proposal.
34. The Council has not raised any concerns in relation to the living conditions of existing or future occupiers, highways and parking or ecology and it states that the impact on local landscape character could be adequately mitigated by the use of planning conditions. Even if I were to agree, policy compliance or a lack of harm in these respects are neutral considerations that weigh neither for nor against the proposal.
35. It is stated that the principle of residential development has been accepted on the wider site by the Council. Whilst residential development has been approved or allowed on adjacent sites, it appears that other considerations were at play in

those other cases. The scheme before me now includes the complete loss of the employment use approved by the previous scheme. I therefore must consider the appeal before me on its individual merits.

Planning Balance

36. The Council cannot currently demonstrate a sufficient housing land supply. The parties agree that the current supply is 3.98 years. Also, the Council is not currently meeting its statutory duty under the Self Build and Custom Housebuilding Act 2015 (as amended) (the Act) in respect of granting permissions for SCB plots. Consequently, paragraph 11 d) ii) of the Framework is engaged.
37. I have found that the location of the appeal site would be at odds with the settlement strategy and that future occupants would have poor access to services and facilities by sustainable forms of transport. I have also found that the proposal would have a negative impact on the rural economy through the loss of a site with an approved employment use. The proposal would therefore conflict with the development plan as a whole.
38. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to the degree of consistency with the Framework. The Framework identifies that the planning system should be genuinely plan-led and expects development to promote sustainable travel modes. Therefore, the conflict between the proposal and Policies ST1, ST3 and CP2 should be given significant weight in this appeal. This accords with the approach taken by the Inspector in paragraph 33 of the recent appeal decision³ on the wider site. The Framework identifies the need to support a prosperous rural economy, consequently, the conflict between the proposal and Policy DM3 should also be given significant weight in this appeal.
39. Turning to consider the policies set out in the Framework, the proposal would result in three additional dwellings on a small site, located on previously developed land. This would help to boost the supply of housing and would be a significant benefit.
40. The proposal is for three SCB plots and the development would be secured as such through the submitted Unilateral Undertaking (UU). There is no dispute between the parties that the Council does not have a specific policy in the development plan relating to the provision of SCB dwellings and that it is not currently meeting the requirements of the Act. It is also not disputed that there is significant support for SCB provision from the Government and through national planning policy.
41. The Council's Self Build Register identifies demand for 159 plots at the end of base period nine and the parties agree that the demand is likely to be more, taking into account other evidence. The appellant states that only 24 plots have been granted permission for SCB dwellings since the statutory duty was introduced whereas the Council states the figure is 11 plots. The Council also records the locations where there is demand for SCB provision. The outstanding demand in Lower Halstow is identified as 12 plots by both parties. The appellant has identified that of the 11 SCB plots granted at the adjacent sites, six plots are currently reserved with deposits paid.

³ APP/V2255/W/24/3339042

42. Whichever SCB supply figure is taken, I find that there is a significant shortfall of SCB provision in both Lower Halstow and the wider borough. The proposal would also therefore contribute a specific type of development to the housing supply, where demand is not currently being met. This would also represent a significant benefit.
43. There would be economic benefits throughout the construction phase and through future occupants supporting local services and facilities. The provision of biodiversity enhancements would also be a benefit. In combination, I find the weight attributed to these economic, social and environmental benefits is substantial in this case. This is in line with the views of the Inspector who dealt with the previous appeal⁴ on the wider site.
44. However, the Framework's objectives to promote sustainable development in rural areas by locating housing where it will maintain the vitality of rural communities and maximise sustainable transport solutions would not be achieved through locating development at the appeal site. Given that the existing settlement strategy is not providing sufficient housing land supply currently, this would temper the conflict with the Framework in this respect. However, the proposal would result in the loss of a site with an approved employment use without sufficient justification, which would be at odds with the Framework, which seeks to support a prosperous rural economy. I attribute substantial weight to the conflict with the Framework in this respect.
45. I have considered the submitted example appeal decisions provided by the appellant. A number of them are for schemes of a substantially bigger scale to that before me now with other material considerations, which would significantly alter the planning balance. The other appeal decisions which refer to smaller schemes are more commensurate with the proposal before me now. I have found above that significant positive weight should be attributed to SCB provision, which is in general alignment with the findings in these other decisions. Nevertheless, the loss of a rural employment use is not a factor which is considered in any of those cases as a main issue, and they are therefore not comparable when considering the final planning balance.
46. Taking all of this into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As such, the presumption in favour of sustainable development does not apply in this case.
47. I note the support from the Interested Party who attended the hearing and the Parish Council. Whilst I understand the comments made, based on the evidence before me, I have taken a different view in this case.

Conclusion

48. The proposal conflicts with the development plan as a whole 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.
49. The appeal site is located within the zone of influence of Medway Estuary and Marshes Special Protection Area and Ramsar site. These European sites are

⁴ APP/V2255/W/24/3339042

recognised for their value as coastal habitats which support internationally important populations of bird species and are protected under the Conservation of Habitats and Species Regulations 2017. New residential development is likely to have a significant effect on the European Sites through increased recreational pressure. The Council is satisfied that the submitted UU would provide sufficient mitigation in this respect. Nevertheless, given my findings above and as I am dismissing the appeal for other reasons, there is no reason for me to consider this matter further as part of this appeal.

G Dring

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Jones – Planning Consultant
Mario Wolf – Planning Agent
Jonathan Rogers – Chartered Surveyor
John McGee – Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Christian De Grussa – Planning Officer

INTERESTED PARTIES:

Olive Lavender – Neighbour
Paul Goodhew – Neighbour
Michael Drury – Local Resident