
Appeal Decision

Site visit made on 3 October 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/K2230/W/23/3336161

Land rear of Hilary Cottage, Hermitage Road, Higham, Rochester, Kent ME3 7NE

- 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 P Rutherford against the decision of Gravesham Borough Council.
 - The application Ref is 20230776.
 - The development proposed is removal of 2 No. containers and hard surfacing and conversion of livery stable into 2 No. residential units plus associated gardens and parking.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr P Rutherford against Gravesham Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. A signed agreement under Section 111 of the Local Government Act 1972 has been submitted confirming that a direct payment has been made with respect to habitat mitigation at the North Kent Marshes Special Protection Area (SPA) and Ramsar site. I will return to this issue in due course.
4. The site lies within the Green Belt. There is no dispute between the parties that, following a previous appeal decision¹ on the site, the proposal would be not inappropriate in the Green Belt as it would involve the re-use of a building that is of a permanent and substantial construction, would preserve openness and not conflict with the purposes of including land in the Green Belt. I have no reason to reach a different conclusion, and the proposal would be in accordance with Gravesham Local Plan Core Strategy (2014) (GLPCS) Policy CS02 and the exception set out in paragraph 155 d) of the National Planning Policy Framework (the Framework).

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area; and

¹ APP/K2230/W/18/3208174 dismissed 13 December 2018

- whether the proposed development would provide appropriate access and parking.

Reasons

Character and Appearance

6. The appeal site consists of a modern, utilitarian barn, an open space immediately adjacent to it with some storage containers and a long access track from Hermitage Road. The barn can be readily viewed from Hermitage Road and is perceived in the context of the expansive livery. Beyond that is open countryside. The site lies within the Higham Arable Farm Landscape Character Area and appears to be generally typical of the gently undulating landscape with extensive views across arable land. There is sporadic residential development fronting onto Hermitage Road.
7. The site is in use as a livery, which is a form of development typical of that found in the countryside and as such contributes to the rural character of the area. While the barn is utilitarian in appearance, it is not atypical of structures found in rural areas. Consequently, it does not detract from the rural character and appearance of the area.
8. The proposed change of use would fundamentally change the character of the site from that of a typical countryside use to residential. The installation of a domestic pattern of fenestration to the property, along with the consequent intrusion of light into the landscape, would also be uncharacteristic of the rural location. This would be exacerbated by the addition of domestic gardens and parking layout. The site also lies a notable distance from Hermitage Road. This would further emphasise the incongruous nature of the proposal, as surrounding dwellings have a relationship to the road frontage.
9. The proposal has been designed to attempt to minimise these adverse impacts. The proposed layout of the site would minimise the potential for domestic paraphernalia to be visible by locating the gardens and parking behind the building when viewed from Hermitage Road. Similarly, the alterations to the building would result in minimal changes to the elevation facing towards Hermitage Road. However, the character and appearance of the site would still be fundamentally altered in a way that is incongruous with the surrounding area. Visibility from public locations would not be the determinative factor in assessing whether or not the proposal would alter the character and appearance of an area.
10. There would be the removal of some areas of hardstanding and containers, the use of adjacent land as a meadow and provide landscaping. However, the site at present is not uncharacteristic of the surrounding area, nor does it detract from its appearance. The assessment of the condition of the landscape set out in the Landscape Character Assessment (LCA) is at the landscape scale. It therefore would not justify the assumption that the existing building must detract from the area. The proposal would not meaningfully address any of the weaknesses in landscape character set out in the LCA, nor would the proposal contribute to the guidelines set out to restore the landscape. These therefore would not be benefits of sufficient weight to outweigh the adverse effects I have identified above.

11. I have been directed to another appeal decision². While that site was within a National Landscape, the character and appearance of an area and the effect of proposal upon it, is dependent on the specific circumstances of that site and that proposal. I have assessed this appeal on its planning merits and findings in a different location would not alter my conclusion in this respect.
12. The adjacent livery involves a number of boundary treatments. In the wider context, a range of landscaping types are apparent. Those aspects of the proposal would not adversely affect that character and appearance of the area in and of themselves. However, a lack of harm would be neutral in the assessment of the proposal.
13. The proposed development would not have an acceptable effect on the character and appearance of the area. It would therefore be contrary to GLPCS Policies CS12 and CS19 which taken together and insofar as they relate to this appeal, require development to at least conserve character. It would not reflect the advice in paragraphs 135 and 174 of the Framework that development should enhance and add to the overall quality of the area.

Access and Parking

14. The site would be accessed via an existing track. This is single width, at least 260m long and does not have any passing bays. The existing use of the site does give rise to large vehicles using this access, and the planning history refers to the use of the site for parking HGVs.
15. The proposal would provide two parking spaces per dwelling. However, no provision is shown for visitor parking. Hermitage Road is relatively narrow and would not provide obvious locations for visitors to the dwellings to park, even if they were prepared to walk the length of the unmade and unlit access track. The highways officer has highlighted concerns about the ability of larger, visiting vehicles to turn within the site and there is no evidence such as tracking drawings before me to demonstrate larger vehicles could turn. Ad hoc visitor parking could therefore add to the concerns about the suitability of the site to provide suitable access for such larger vehicles. It therefore would be necessary for visitor parking to be provided, in addition to the parking to serve the dwellings.
16. There is no evidence before me to demonstrate that the proposal would materially alter the number of trips from that that could be generated by the site at present. There is not an unobstructed view along the full length of the access track. However, drivers at either end of the access would be capable of seeing for a reasonable distance and would be able to wait for any vehicle travelling in the opposite direction to pass at the relevant end of the access. Should vehicles meet at a mid-point along the access track, any necessary reversing manoeuvres would be limited where drivers are paying due care and attention.
17. My attention has been brought to the Kent Design Guide and its advice with respect to designing for movement. While this sets out that intervisible passing bays should be provided at intervals of less than 40m, this is for lanes which could provide access for up to 25 dwellings. For the reasons I have

² APP/H2265/W/23/3321085 allowed 9 November 2023

given above in relation to the use of the access on the basis of the evidence before me, I consider it would not be necessary to require passing bays.

18. The proposed parking arrangements show parking spaces adjacent to a field gate. There would be the potential for conflict arising from the use of those parking spaces restricting access to the field. However, as the adjacent land is shown as being in the appellant's ownership, this is a matter which could be addressed by condition.
19. The proposed development would not provide appropriate access and parking. It therefore would not be in accordance with GLPCS Policies CS11 and CS19 which require new development to provide sufficient, well related car parking. It would also conflict with Gravesham Local Plan First Review Saved and Deleted Policies Version (1994, updated 2014) (GLPSP) Saved Policy P3 which expects all vehicle parking provision to normally be made on the development site. GLPSP Saved Policies T1 and T5 require development to be adequately served by the highway network and addresses the intensification of use of existing accesses. The proposed development would not conflict with these policies. The proposal would also not accord with paragraph 116 of the Framework insofar as it requires development to allow for the efficient delivery of goods and access by service and emergency vehicles. While the proposal would result in the harms to highway safety and the operation of the highway network as set out by paragraph 115 of the Framework, this would not justify allowing the proposal against the adverse effects I have identified. I have had regard to the advice in paragraph 135 of the Framework, which requires development to function well, in reaching this conclusion.

Other Matters

20. The site is located within the zone of influence for the Thames Estuary and Marshes SPA which is subject to pressure from recreational disturbance. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the habitats sites. However given my findings on the case overall, no pathways to significant adverse effects on habitats sites would arise from my decision. A finding that the proposal would not have an adverse effect on the integrity of the habitats sites, with or without any mitigation, would be at best a neutral matter. This also means that I do not need to consider further whether the submitted agreement would provide the certainty to secure the mitigation, given the applicant on the Section 111 agreement is not the appellant and it refers to the North Kent Marshes SPA and not the Thames Estuary and Marshes SPA.
21. There would be benefits from the delivery of an additional two dwellings in an area where a five year supply of housing land cannot be demonstrated and delivery has not met the requirements of the housing delivery test. There would also be economic benefits during the construction and occupation stages. Ecological enhancements are suggested, but not quantified in the Preliminary Ecological Appraisal. Some of these are shown on the submitted plans, and a final scheme could be secured by condition. These would weigh in support of the proposal.
22. It does not automatically follow that residential use of previously developed land is a more effective use of land. Nor would the location of two residential

properties in the countryside represent a meaningful increase in housing density. Furthermore, the Framework acknowledges at paragraph 128 d) that the desirability of maintaining an area's prevailing character and setting should be taken into account in making efficient use of land. These factors do not lend support to the proposal.

23. The proposal would provide acceptable living conditions and private amenity space for future occupiers. Suitable landscaping could be secured by condition. However these are to be expected of any well designed development and so would be neutral considerations in the determination of this appeal.

Planning Balance

24. It is not in dispute that the Council cannot demonstrate a deliverable supply of five year housing land, with the evidence before me indicating a supply of 2.9 years and housing delivery at 59%. In such cases, paragraph 11d of the Framework is engaged. There are no policies in the Framework that provide a clear reason why the development should be refused, given that it is agreed the proposal would constitute not inappropriate development in the Green Belt. Paragraph 11d ii is therefore engaged.
25. The proposal would result in the delivery of two additional market dwellings. While this is a small number, I attach moderate weight to this as a benefit given the extent of the shortfall and results of the housing delivery test. I attach limited weight to the economic benefits during the construction and occupation stages of the development given the proposal is for a small number of dwellings and to the proposed ecological enhancements.
26. I attach significant weight to the adverse effect the proposal would have on the character and appearance of the area. I am also not satisfied the proposal makes satisfactory provision for visitor parking and consequently allow for the turning of larger vehicles and I attach moderate weight to this harm. Consequently, I find that the adverse effects of the proposal significantly and demonstrably outweigh the benefits of the proposal. The proposal therefore does not benefit from the presumption in favour of sustainable development.

Conclusion

27. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, of sufficient weight to indicate the decision should be taken otherwise. For the reasons given, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR