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## Appeal Decision

Site visit made on 6 December 2018

**by David Troy BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2018**

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**Appeal Ref: APP/K2230/W/18/3208174**

**Rutherford Stables, Hermitage Road, Higham, Rochester, Kent ME3 7NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Paul Rutherford against the decision of Gravesham Borough Council.
  - The application Ref 20171104, dated 10 October 2017, was refused by notice dated 22 February 2018.
  - The development proposed is conversion of livery stable and tack rooms into one 4no. bedroom dwelling and one 2no. bedroom self-contained flat with two garages and change of use of land from paddock to residential, including demolition/removal of 3no. detached livery structures.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. A draft Section 106 Unilateral Undertaking has been submitted by the appellant. It would secure a contribution towards mitigation measures on local Special Protection Areas (SPAs) and Ramsar sites in the area and I return to this matter later.

### Main Issues

3. The main issues are:
  - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
  - (ii) the effect of the development on the character and appearance of the area having particular regard to its location in the Higham Arable Farm Landscape Character Area; and
  - (iii) Whether or not the proposed development would accord with the Framework and the policies in the development plan relating to the location of new development in the District, having particular regard to the accessibility of local services and facilities.

## Reasons

4. The appeal site comprises of a steel portal framed agricultural building used for stabling with ancillary services, tack rooms and mezzanine accommodation located in an open countryside location. The building is clad with metal profile sheeting to external walls over a concrete sub-structure floor with fibre cement sheets over the roof. The proposal would involve the conversion of the building into a dwelling and self-contained flat with associated parking and garden.

### *Whether inappropriate development in the Green Belt*

5. Rutherford Stables is within the Green Belt and the National Planning Policy Framework July 2018 (the Framework) states at paragraph 143 that inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances.
6. However, paragraph 146 of the Framework indicates that the re-use of a building can be considered as being not inappropriate development provided the building is a permanent structure and is of substantial construction and the openness of the Green Belt would be preserved and there would be no conflict with the purposes of including land in the Green Belt. Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (CS) indicates that development within the Green Belt will be supported when it is compatible with national policies for protecting the Green Belt.
7. The existing steel portal framed building to be converted is of fairly recent construction. The Council contend that insufficient satisfactory evidence has been provided to confirm that the building is substantial and permanent or capable of conversion. However, the appellant submitted structural reports and the supporting construction statement<sup>1</sup> outline that the building is sufficiently robust and structurally adequate for the proposed conversion and is considered to be permanent and substantial. Aside from the new windows and doors, the main structure would largely remain intact. The replacement timber cladding to the external walls and replacement recycled plastic roof slates would use the existing structure. Therefore, in the absence of any convincing evidence to the contrary, based on the evidence and my observations on my site visit, I consider that the building is a permanent structure that is of substantial construction.
8. The proposed building would be of a similar height, scale and profile to the existing and would have a neutral impact on the openness of the Green Belt. The proposed demolition and removal of 3no. detached livery structures would result in a reduction in the amount of built development on the site and a modest positive impact on the openness.
9. Consequently, I have found that this development would involve the re-use of a building of a permanent and substantial construction. The proposed development would, overall, result in modest positive impact on the openness of the area and that there would be no conflict with the purposes of including the land within the Green Belt.

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<sup>1</sup> Freeman Design and Surveying Consultancy Ltd - Intermediate Structural Planning Survey dated 12 January 2016, Addendum Report dated 12 December 2016 and Summary Construction Sequence and Procedures Schedule dated September 2017

10. Taking those factors into account, I conclude that the proposal would not constitute inappropriate development in the Green Belt and would be consistent with CS Policy CS02 and the aims of the Framework (paragraph 146). I find no direct conflict though with Saved Policy C11 of the Gravesham Local Plan First Review 1994 (LP) which relates primarily to conversion of farm buildings to other uses and makes no reference to the Green Belt.

*Character and appearance of the area*

11. The appeal site is set in attractive countryside, defined by gently undulating fields punctuated by hedgerows and tree boundaries. It is accessed via a long gravelled track from Hermitage Road and is set back approximately 270m from the public highway. The topography of the appeal site and the surrounding open fields slopes gently away from the public road and are separated by low timber post and rail and wire fencing, which adds to the open and rural character of the area.
12. A main objective of the Framework is to take into account the character of different areas, recognising the intrinsic character and beauty of the countryside. The appeal site is located within the Higham Arable Farm Landscape Character Area (LCA)<sup>2</sup> defined by a gently undulating topography with open arable farmland, hamlets and settlements and isolated farmlands and scattered properties with locally distinct styles and materials that contribute to the rural character of the area. Paragraph 170 of the Framework makes it clear that, among other things, valued landscapes should be protected and enhanced. Based on the evidence before me, the site lies in an area which has no national or local designation and as such does not fall within the scope of the valued landscapes under Paragraph 170 of the revised Framework.
13. The existing building is of an unexceptional, functional appearance. Although large, as a livery stable building it is by definition not out of place in a rural area. The building has been in existence since the late 1980's and is accepted by the local community. The building does not make a positive contribution to the character of the area but does not detract from it either, and there is consequently no imperative for its aesthetic improvement by conversion to residential use.
14. The proposal would involve the change of use of the livery stable building to a four bedroomed dwelling and two bedroomed self-contained flat. The submitted plans show the insertion of new window and door openings, the proposed residential curtilage extending to the north east of the building and the parking area directly in front of the building to the south west.
15. The proposal would noticeably change the character of the building from a livery stable structure to a residential building. The converted building, re-roofed and re-clad with entirely new materials, would bear no relationship to the existing building other than occupying the same footprint and being the same shape. The resulting building would not appear as traditional rural Kent vernacular, but as an unusual shaped residential conversion, albeit clad in quality materials with modern fenestrations. The proposed boundary treatment and the reduction in the hardstanding area around the building and site generally would not sufficiently mitigate this appearance.

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<sup>2</sup> Gravesham Landscape Character Area (LCA) Assessment 2009

16. These shortcomings would be exacerbated by the proposal's position where it would be visible from a number of public vantage points along Hermitage Road across the open gently sloping countryside and the proposed residential curtilage and the new garden area to the north east of the building. This area is currently open grassland with post and rail fencing, but there are open views to and from the countryside to the north, south and east. Curtilage buildings could be controlled by condition, but a landscaped garden area with inevitable signs of domestic occupation such as patios, garden furniture, clothes drying and play equipment would introduce domestic formality into this countryside location that would detract from the visual quality and would significantly harm the rural character of the area.
17. I have considered the appellant's arguments that the design and layout are intended to reflect the key characteristics of traditional Kentish barns in the locality and has been redesigned following the Council's comments on the previously refused scheme on the site in April 2017<sup>3</sup>. Whilst the changes to the wall and roof coverings would bring some improvements to the building's appearance, these aspects do not overcome the adverse effects outlined above. I consider that the proposed development would be unrepresentative of the overall character of the other traditional timber clad buildings in the area and does not justify such an inappropriate residential development in this location. The proposal, with its extensive fenestrations to front, rear and side, would also introduce lighting into the area at night where at present there is none. This would add further to the incongruity of the use against the rural appearance of the surrounding fields and countryside.
18. Consequently, I conclude that the proposal would result in significant harm to the character and appearance of the area, including the LCA. The development conflicts with the overall aims of CS Policies CS12 and CS19 that seek, amongst other things, to ensure all proposals for new development are visually attractive and locally distinctive, conserve and enhance the local natural environment and landscape character, and integrate well with the surrounding local area. Similarly, it would not accord with the aims of the Framework that developments should seek to be sympathetic to the local character and landscaping setting (paragraph 127) and recognise the intrinsic character and beauty of the countryside (paragraph 170).

#### *Location of development*

19. The Council considers that the appeal site is in an unsustainable location and that the proposal would result in reliance on the private car as a mode of transport.
20. Paragraphs 78 and 79 of the Framework seek to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and avoid new isolated homes in the countryside unless there are special circumstances, such as where the design is of exceptional quality and where the development would re-use a redundant or disused building and enhance its immediate setting, which do not apply in this case. Paragraph 38 of the Framework requires Local Planning Authorities to take a positive approach to decision taking to secure development that can improve the economic, social and environmental conditions of the area.

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<sup>3</sup> 20160888

21. Whilst the appeal site would be physically and visually divorced from the nearby village of Higham and no other development is located immediately around it, it would be located about 0.5km from the village. Higham has a reasonable range of facilities and services, including three general stores, public houses, church, primary school, doctor's surgery and pharmacy. The information provided by the appellant indicates that the village has bus services linking the village to the larger settlements of Strood, Rochester and Chatham although no information has been provided about the frequency of the services.
22. The facilities in the key local village centre of Higham would be accessed via the long gravelled track and Hermitage Road. From my observations on my site visit, Hermitage Road carried a steady flow of traffic and contained a short section of road with no footpath or lighting. The lack of footpath, absence of street lighting and traffic movements along Hermitage Road could dissuade some residents from making journeys on foot from the appeal site to use the local facilities in Higham, particularly during hours of darkness and poor weather conditions. Notwithstanding this, at my site visit I saw a number of people using the road for walking. Given the distance involved, I consider the future occupiers would reasonably be able to walk and cycle to the services and facilities in this village.
23. As such, although future residents would be likely to depend on the private car to reach the essential services and employment available in nearby larger settlements, some day to day trips could be undertaken by sustainable means. Consequently, I conclude in relation to the third main issue that the site would not be in the optimum location to maximise the use of walking, cycling or public transport to access services and facilities to meet daily needs. However, the Framework recognises that opportunities to maximise sustainable transport will vary from urban to rural areas and different policies and measures will be required in different communities.
24. The appeal site would not be remote from the services and facilities in the village of Higham and the future occupiers could support the local services and communities. The proposed development would therefore not, in my view, be in an isolated location in the context of paragraphs 78 and 79 of the Framework. There would at least be a choice to use accessible modes of transport to access local services and facilities and the additional residential uses in this location would not significantly undermine the aims of Saved Policy C11 of the LP to ensure that the conversion of farm buildings are in an appropriate location in relation to roads and services.

### **Other Matters**

25. Refusal Reason 5 on the Council's Decision notice relates to failure to address the impact of the development on local SPAs and Ramsar sites through either submitting any ecological evidence to inform a habitat regulation assessment or a contribution towards strategic mitigation measures. I note the appellant had agreed in principle to pay a financial contribution and has submitted a draft Section 106 Unilateral Undertaking. However, in light of my findings on the main issues above, it is not considered necessary to look at this matter in detail, given that the proposal is unacceptable for other reasons.
26. I have considered the appellant's comments regarding their personal circumstances, the intended family use and long standing connections with the

area and the benefits arising from the proposed development. However, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended and as such are matters to which I can attach only limited weight in making this decision.

27. The main parties have presented a number of appeal decisions in support of their case. Whilst, I note some parallels between these other cases, each has different development and locational characteristics to the appeal scheme. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases. I therefore accord them limited weight as precedents in this case.
28. The appellant considers that the proposal would provide a sustainable form of development that would provide benefits through meeting the needs of the appellant, contributing to the supply of housing in the area, providing jobs during the construction period and additional expenditure in the local economy. The Framework promotes sustainable development in rural areas, and the additional dwellings would make a positive, albeit modest contribution to the supply of housing and supporting the vitality of the village and the surrounding rural communities. In environmental terms, the appellant states that the proposed scheme's design, use of a previously developed site and the accessibility to services would amount to environmental benefits.
29. However, I have found above that taken overall the development would harm the objectives set out in the Framework and the great weight it places on conserving the landscape, intrinsic character and beauty of the countryside together with the area's character and appearance to which I attach significant weight. In addition, I found that the provision of the proposed development in this location would conflict with CS Policies CS12 and CS19 relating to design and character.
30. The harm set out above would conflict with the environmental objective of sustainable development and, in my view, would be sufficient to outweigh the scheme's benefits when assessed against the Framework when read as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework. The Framework is a material consideration. However, in the circumstances of this appeal, the other material considerations do not justify making a decision other than in accordance with the development plan.

## **Conclusion**

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Troy*

INSPECTOR