



Appeal Decision

Site visit made on 1 August 2016

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 September 2016

Appeal Ref: APP/V2255/W/16/3148613

Brook Farm, Butlers Hill, Dargate, Kent ME13 9HH

- 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 David Whittlesea against the decision of Swale Borough Council.
- The application Ref 15/510551/FULL, dated 22 December 2015, was refused by notice dated 24 March 2016.
- The development proposed is convert existing, redundant outbuilding into single dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has drawn my attention to an extensive list of new build and conversion proposals (the history cases) that have been permitted by the Council or allowed on appeal, which he considers lend support for the appeal development. However, no details¹ for these history cases were included with the appellant's originally submitted case, with it being mistakenly presumed that part of my role would be to research this planning history. Accordingly, and in recognition of the fact that the appellant is unrepresented, I have given him the opportunity to submit further details for up to six of the history cases for me to consider. I shall comment further on those history cases in my reasoning below.

Main Issue

3. The main issue is whether the appeal site would be an appropriate location for a dwelling having regard to local and national planning policies concerning the provision of housing in the countryside.

Reasons

4. The appeal building is a small detached outbuilding that is sited a little to the west of Brook Farm, a detached house. The appeal development would involve the conversion of the outbuilding into a one bedroom dwelling and this proposal would include some limited alterations to the building's fenestration.
5. The dwelling would be located within the countryside and accordingly on the face of it there would be conflict with Policies E6 and RC6 of the Swale

Borough Local Plan of 2008 (the Local Plan), which discourage new dwellings in a location such as this.

6. Policy E6 is a general policy that seeks to protect the countryside from inappropriate development, although the conversion of buildings and the provision of affordable housing may be permissible, subject to compliance with Policy RC6. Policy RC6 in addressing the re-use of rural buildings for residential purposes indicates, amongst other things, that permission will not be granted unless it has been demonstrated that a reasonable and sustained effort has been made to secure an acceptable employment or community use (market testing) or the building would be undesirable or unsuitable for a non-residential use in its own right or by way of its location.
7. However, the appellant contends that the Council cannot currently demonstrate the availability of a five year housing supply (HLS) within its area and the Council has not refuted that contention. In the absence of comments to the contrary the available evidence suggests that a HLS is currently absent. I consider Policies E6 and RC6 are ones that affect the location of housing and are thus relevant to its supply and in the absence of an HLS should not be treated as being up to date for the purposes of paragraphs 14 and 49 of the National Planning Policy Framework (the Framework), as clarified by a recent Court of Appeal judgement².
8. Taking the above into account the presumption in favour of sustainable development referred to in the Framework is engaged. Accordingly permission should be granted unless ‘... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole ...’ (paragraph 14 of the Framework).
9. Paragraph 55 of the Framework is of particular relevance to this case and while it promotes sustainable development in rural areas, it states that housing should be located where it will enhance or maintain vitality in rural communities, with development within one village in some instances having the potential to support services in others nearby. Paragraph 55 goes onto to state that isolated homes in the countryside should be avoided unless there are special circumstances such as an essential need to accommodate rural workers (first bullet point) or a scheme would involve the re-use of a redundant or disused building and lead to an enhancement to the immediate setting (the third bullet point).
10. Dargate is a hamlet which is characterised by a dispersed pattern of ribbon residential development along various roads. Those roads being narrow, unlit and lacking footways, factors discouraging their use by pedestrians or cyclists. Dargate has very few local facilities of its own, with the only facilities of particular note being The Dove Inn public house and a bus stop, both of which are situated approximately 800 metres (half a mile) from the appeal site, at the northern extremity of Bunters Hill. The 638 bus service operates between Faversham and Whitstable, however, this service operates on a quite limited basis³, with a frequency of: between one and two hourly on Mondays to

² Suffolk Coastal District Council v Hopkins Homes Ltd and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP v Cheshire East Borough Council and the Secretary of State for Communities and Local Government [2016] EWCA 168

³ According to the timetable displayed at the bus stop opposite the public house

Fridays; only two hourly in the middle of the day on Saturdays; and no services at all on Sundays. The Hernhill Church of England Primary School is around 1.6 Km (one mile) from the appeal site and I am mindful that within Dunkirk there is a post office and some other shops and commercial premises.

11. While there is some residential development along Butlers Hill, as I have indicated above, this together with the other housing in Dargate is of a dispersed nature and given the absence of a range of readily accessible facilities within this hamlet, I find the appeal development would amount to the provision of an isolated home in the countryside. In this respect it is of particular note that the closest towns providing a full range of facilities are Whitstable, Faversham and Canterbury, all of which are several miles away. Having regard to the limited facilities that are available within Dargate and the restricted bus service that is in operation, I find it likely that there would be a high level of private vehicle dependency amongst occupiers of the dwelling. In my opinion when considering whether a development would or would not be sustainable in transportation terms, proximity to public transport services is only one factor that needs to be taken account of, with the frequency of the services also being of significance.
12. There would be poor accessibility to local facilities and public transport and this weighs significantly against the sustainability of this development in locational terms. In this respect I note that two other Inspectors in determining three recent appeals⁴ have similarly concluded that Dargate is subject to a poor level of accessibility. I am also of the opinion that while the conversion of this building into a dwelling would bring some economic and social benefits, in terms of the provision of a dwelling and employment opportunities during the construction phase, those benefits would be very limited, particularly in the context of enhancing or maintaining Dargate's economic vitality and that of the other nearby rural communities.
13. For the purposes of paragraph 55 of the Framework I consider the only special circumstance relevant to this proposal is that relating to the conversion of an existing building. However, while the appellant has referred to this building as being a redundant one, at the time of my site visit it was being put to some use, with a car being parked within it and there also being some vehicle repair equipment and bikes in it. The building did not appear to be redundant or disused to me and the application form refers to it being used for storage (part 14) and this is consistent with my observations.
14. I found the outbuilding and its immediate surroundings to currently have an appearance that is appropriate to a location such as this and the building's setting is one that is not in need of enhancement, not least because the majority of the site is well screened from Butlers Hill by a mature hedgerow. I therefore find that the special circumstances referred to in paragraph 55 of the Framework needed to justify a proposal such as this not to be evident.
15. It is suggested that this dwelling could help in meeting the local need for housing, including that of some of the appellant's family members, in line with the results of the local housing needs survey commissioned by Hernhill Parish Council and the Council. While this proposal could assist with meeting local affordable housing needs, that contribution would be very modest and no

⁴ APP/V2255/A/14/2223979, APP/V2255/W/15/3135870 and APP/V2255/W/16/3144387

mechanism⁵ has been put forward by the appellant to secure the delivery of housing to meet any such local need. I therefore find that this aspect of the appellant's case attracts limited weight.

16. While there is no evidence that the appeal building has been marketed for non-residential occupation, the appellant has submitted that it has been used by a number of occupiers 'over the past few years', with those occupiers vacating it because its location was 'too distant' and/or there were issues with its security. The absence of any formal marketing having been undertaken is a factor that I find not to count to any significant degree against this proposal, having regard to the reduced weight that can be attached to Policy RC6 of the Local Plan and its inconsistency with the Framework, in that the need to provide evidence of market testing is not referred to in the Framework. However, the fact that the building's location has been a deterrent to its use by non-residential occupiers is a factor that lends support to my finding that this would be an isolated location for a dwelling.
17. With respect to the history cases I would make the following comments, although for the cases concerning the Granary at Place Farm, Sandhole Farm and Dorothy Caravan no Council officer reports have been provided to assist my understanding of the decisions made by the Council.
18. I find the case at Black Barn Farm not to be directly comparable because that site benefits from a prior approval consent (as opposed to an express planning permission) issued pursuant to the permitted development (PD) rights available under the provisions of secondary planning legislation⁶ for the conversion of agricultural buildings to dwellings. The Black Barn Farm application sought confirmation of the availability of the PD rights and as such the consideration of national and local planning policy was not relevant.
19. With respect to the Granary at Place Farm some of the planning conditions (11 to 13) that have been imposed refer to matters of detail suggesting that this building may be of greater architectural or historic interest than the appeal building, given the conditions that the Council has suggested be imposed in the event that this appeal is allowed. Accordingly on the available evidence it appears to me that the circumstances of the appeal development and the Granary are not comparable with one another.
20. With respect the proposal concerning Sandhole Cottage I note that the development type identified on the Council's decision notice is described as 'Householder' and this suggests to me that permission was sought for ancillary accommodation to the host property, as opposed to a freestanding dwelling. The decision notice for the appealed application describes the development type as being for 'Minor Dwellings' and this is consistent with this being for a standalone dwelling. I therefore find the Sandhole Cottage case not to be comparable with the appeal development.
21. With regards to Dorothy Caravan the proposed dwelling would replace a caravan and in my experience such a proposal is likely to have been subject to some form of special justification, such as a residential presence being required and a caravan initially being sited while a rural enterprise becomes

⁵ For example a planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

⁶ The Town and Country Planning (General Permitted Development) (England) Order 2015

established and then being replaced by a permanent dwelling when it is demonstrated that the business is viable. On the available evidence I find it unlikely that the circumstances that gave rise to the permission at Dorothy Caravan to be comparable with the appeal development.

22. I do not consider the permission for the new primary school in Hernhill to be comparable with the appeal proposal as this involved the provision of a community facility, with it being envisaged that the redevelopment of the original school site would generate enabling funding for the new school. The circumstances surrounding the provision of the new school were therefore somewhat unique. I find the proposal concerning Black Oast, Godfreys Grave not to be comparable because it involved a conversion scheme for the provision of dyslexia teaching area and a holiday let rather than a single dwelling.
23. The appeal development would involve the formation of an isolated dwelling in the countryside for which no special justification has been demonstrated under the provisions of paragraph 55 of the Framework. I therefore conclude that this would be an inappropriate location for a dwelling and that there would be conflict with paragraph 55 of the Framework, with there being no particular support for this scheme under other parts of the Framework, most particularly paragraph 7, given the limited social and economic benefits that would arise. This proposal would also be contrary to Policies E6 and RC6 of the Local Plan, a factor weighing against this development. However, the absence of an HLS and the lack of full consistency between paragraph 55 of the Framework and Policies E6 and RC6 means that I find that the conflict with the Local Plan is, of itself, not determinative in this instance.

Other Matters

24. The appeal development would involve minimal external alterations to the building and I accept that the resulting development would have an acceptable appearance. While that matter weighs to a limited degree in favour of this proposal, it is a factor that I find to be outweighed by the harm that I have identified, harm which could not be overcome by the imposition of reasonable planning conditions.
25. The absence of any objections from Hernhill Parish Council or local residents does not persuade me that permission should be granted.

Conclusions

26. For the reasons given above I find that the benefits of this proposal are outweighed by its disadvantages and that this would be an inappropriate location for a dwelling. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR