



Appeal Decision

Site visit made on 15 January 2019

by **Jonathan Price BA(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th January 2019

Appeal Ref: APP/V2255/W/18/3205706
Greenhurst, Heart's Delight Road, Tunstall, Kent ME9 8JA

- 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 and Mrs R Miller against the decision of Swale Borough Council.
 - The application Ref 18/500944/FUL, dated 12 February 2018, was refused by notice dated 10 April 2018.
 - The development proposed is change of use of existing swimming pool building to detached bungalow with widened access onto Heart's Delight Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 24 July 2018, since this appeal was made, Government published the revised National Planning Policy Framework (the Framework). Having granted the parties an opportunity to make further comment, my decision reflects this.

Main Issues

3. Whether the proposal would
 - (i) be appropriately located with regard to accessibility to services and its effect on the character and appearance of the area, and
 - (ii) preserve acceptable living conditions for future occupiers and those of the host and neighbouring dwellings, with particular regard to noise and disturbance.

Reasons

- (i) *Accessibility to services and effect on character and appearance*
 4. The bungalow would be provided by the conversion of the swimming pool located in the back garden of the host dwelling, Greenhurst, which is at the end of a short section of frontage housing. The surrounding area is rural in character comprising disjointed sections of mainly ribbon development located within the countryside outside of the main town of Sittingbourne.
 5. The site is on bus routes between Bredgar, Borden and Sittingbourne, where a main line rail station is located, and there is a primary school within walking distance. However, there are few nearby services and access to these is via

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often quite narrow, unlit country roads without footpaths which discourages walking and cycling. Despite a bus service, occupiers of the proposed bungalow would have relatively poor accessibility to regularly required services and be mainly dependant on journeys by private car.

6. The proposal is outside of the built-up area boundaries defined in the Swale Borough Local Plan (LP), considered in policy terms as open countryside, and would not contribute to the protection and enhancement to the area. Consequently, there would be conflict with LP Policy ST 3 which seeks to focus new development within the framework of the Swale settlement strategy.
7. The proposal would not gain the support of LP Policy CP 3 which requires that residential development is steered to locations that accord with Policy ST 3. These policies seek to focus new housing to where there are the most services accessible by means other than by private car, and I give significant weight to the location of the proposal conflicting harmfully with this aim.
8. The existing swimming pool building is well screened by the existing house and garage and also by surrounding trees and hedgerows. However, the creation of a separate bungalow, with its own garden and domestic paraphernalia, would involve residential development expanding beyond its limits and into land lying to the rear of the existing housing. This would be out of keeping with the established linear pattern and result in residential development projecting into the adjacent countryside, causing moderate harm to the rural character and appearance of the area. This would conflict with LP Policy DM 14 which seeks that all development proposals be well sited in a way that is sympathetic and appropriate to the location and accord with other LP policies.

(ii) Living conditions

9. The proposal would establish a residential use to the rear of the existing residential building line and the new access would result in vehicular movements deeper alongside the side parts of the host property. I am advised that similar 'backland' dwellings have been permitted previously in the Borough, although full details of these have not been supplied and it remains necessary to assess this proposal on its individual merits. The bungalow would cause a limited amount of noise and disturbance to the occupiers of Greenhurst and other nearby dwellings due to increased noise and disturbance. However, a single dwelling would not cause significant harm to amenity and so I find no material conflict with LP Policy DM 14 in this regard.

Planning Balance and Conclusion

10. The Framework and the accompanying Planning Practice Guidance (PPG), as an expression of Government policy, comprise important material planning considerations to which I give significant weight. However, I give little weight to the Government's extension to permitted development rights under Class Q as these apply only to agricultural buildings and are not intended as a wider expression of policy.
11. The proposed bungalow would be near to existing dwellings and in this sense would not be an isolated home in the countryside that paragraph 79 of the Framework seeks planning decisions avoid. In any event, the proposal would provide the limited benefits of converting an existing building and making use of what might be defined previously-developed land in the Framework.

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12. Weight is given to the proposal contributing to the supply of relatively scarce bungalow accommodation and meeting the appellants' personal needs for smaller and more suitable single-storey accommodation, thereby allowing their daughter and son-in-law to occupy Greenhurst and offer close support. However, reference is made to the existing building being capable of being put to other uses acceptable in planning terms, including as an annexe. This would appear to offer an avenue to meeting the personal needs whereby conflict with development plan policy might not arise and so therefore the case made in this regard is given only limited weight.
13. The Framework does not explicitly endorse a blanket restriction on new housing in rural areas and the PPG advises that policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. However, the LP has quite recently been adopted and therefore had previously been found to be sound on Examination over its consistency with the 2012 Framework.
14. Policies ST 3 and CP 3 are therefore based on the robust evidence underpinning the LP, whereby the locational policies for new housing reflect the Framework principles for sustainable development through focussing this within existing built-up areas. These areas generally provide the greatest accessibility to services and facilities, the largest amount of previously-developed land and avoid development spreading into and harming the character and appearance of the countryside.
15. The revised Framework generally retains the policies of its predecessor. These seek the achievement of sustainable development through promoting patterns of growth which limit the need to travel and offer a genuine choice of transport modes and that also recognise the intrinsic character and beauty of the countryside.
16. The Framework endorses a plan-led system whereby planning law requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. The significant harm resulting from poor accessibility to services and moderate harm to the character and appearance of the countryside would outweigh the more limited benefits of this proposal. The material considerations would therefore not indicate this appeal be decided otherwise than in accordance with the development plan where conflict has been found with LP policies ST 3, CP 3 and DM 14.

Unilateral Undertaking (UU)

17. The appeal site is located 8 km from the Medway Estuary and Marshes Special Protection Area (SPA). There is thus potential for harm to arise from cumulative effects of individual, small scale developments in respect of this international designation, which relates to the protection of vulnerable bird species. The appellant has provided a UU to provide the financial contribution required by the Council to mitigate the effect of the proposal on the SPA.
18. Had I been minded to allow the appeal, I would have sought further information to establish whether an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 is required, and also to come to a finding on whether the planning obligations would meet the relevant

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legal and policy tests. However, as the appeal is failing for other reasons I have not pursued this matter further.

Conclusion

19. For the reasons given I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR