



Appeal Decision

Site visit made on 7 May 2019

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Friday, 17 May 2019

Appeal Ref: APP/V2255/W/18/3217204

64 School Lane, Lower Halstow ME9 7ET

- 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 & Mrs Morgans against the decision of Swale Borough Council.
 - The application Ref 18/501742/FULL, dated 28 March 2018, was refused by notice dated 29 May 2018.
 - The development proposed is change of use, conversion and extension of existing garage to form a new 2 bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council determined the application, the Government has published the results of the 2018 Housing Delivery Test measurement and the main parties have been given the opportunity to comment on the implications for this case.

Main Issue

3. The main issue is whether the site is a suitable location for the proposed development with regard to the settlement strategy, and its implications for the countryside.

Reasons

4. The site is located to the front and side of 64 School Lane, a semi-detached two storey dwelling. It is on the edge of the village of Lower Halstow, and is adjacent to open fields to the side and rear. To the front of the site is a small tree belt alongside a stream with a public footpath. The appeal site is on the opposite side of School Lane to the more densely developed core of the village, and the semi-detached dwellings at Nos 62 and 64 appear as a small pocket of development which is surrounded by open countryside to the sides and rear. I therefore conclude that the appeal site is within the open countryside, as defined by the settlement boundary for the village, which I understand to follow School Lane in the vicinity of the appeal site.
5. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement strategy for the Borough and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/18/3217204

countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Although the site is adjacent to the settlement boundary, the site is not within a defined settlement and therefore the proposal is contrary to the settlement strategy for the area.

6. I accept that part of the proposed dwelling would be formed through the conversion of the existing garage, but the bulk of the building would be new build and I have seen no evidence that this would be in accordance with the development plan. I appreciate that the site comprises previously developed land and would not encroach onto agricultural land, but Policy ST3 does not make an exception for such sites.
7. The existing buildings on the appeal site are modest outbuildings that appear subordinate to the existing dwelling at No 64, and due to the width of the side garden the existing dwelling has a spacious setting. The appeal proposal would result in a substantially extended building that would fill the width of the plot, leaving a relatively small gap either side. I appreciate that the proposed dwelling would have a single storey appearance and that a reduction in the area of hardstanding to the front of the building is suggested in the appellant's Appeal Statement. It would nonetheless appear as a substantial building and a separate dwelling on a subdivided plot. This would result in a more intensively developed appearance that would consolidate the small pocket of development represented by Nos 64 and 62, and intensify this sporadic form of development in the countryside. For these reasons, the proposed development would significantly detract from the open character of the countryside.
8. I am aware that the garage, parking area and drive have an authorised mixed use for residential and repairing, re-spraying, renovating, valeting and/or storage of motor vehicles¹ and that the appellant is of the opinion that this use is still lawful and that the site could be sold with the benefit of this use. While this is disputed by the Council as set out in its reason for refusal, my concern relates to the effect of the increased built form on the site and the conflict with the settlement strategy that would occur through the creation of a dwelling. My observations on site, though only a snap shot in time, are supported by the evidence provided by the appellant, and lead me to conclude that the current use of the site has a limited impact on the character and appearance of the area. I have seen no evidence that the continued mixed use of the site would have a similar harmful effect on the open character of the countryside as the appeal proposal. I therefore do not find that the fall back position put forward by the appellant overrides the harm I have identified.
9. As a result, I conclude that the site is not a suitable location for the proposed development with regard to the settlement strategy, and its implications for the countryside. It would therefore be contrary to policies ST3 and DM14, insofar as they seek to resist development in the countryside and conserve the natural and built environment. The Council has listed Policy DM11 of the Local Plan in its decision notice but this applies to extensions to and replacement of dwellings in the area, and is not applicable to this proposal.

¹ Ref APP/C/97/V2255/646452

Appeal Decision APP/V2255/W/18/3217204

Other Matters

10. I have had regard to the site's location in relation to a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. Although not identified as a formal reason for refusal, the Council has stated that mitigation is required and the appellant has sought to address this. However, as any consideration of that matter would not affect my finding on the main issue, and the appeal would in any case be dismissed, it is not necessary for me to address that objection any further as part of this decision.
11. I saw on my site visit that there has been recent development elsewhere on School Lane², but this is separated from the appeal site by the stream, footpath, tree belt and a field. I understand from the evidence provided by the appellant that the majority of that development was located inside the settlement boundary, with only a small section of land within the countryside being used as garden. I do not therefore find that it is a comparable case that has any bearing on this proposal, and I have determined the appeal on its own merits. My attention has also been drawn to other residential development in the area, but I have seen no evidence that the circumstances are comparable to this case. I acknowledge the appellants' desire to retire and move into a smaller dwelling, but this does not outweigh the harm I have identified. I am also aware that the appellant considers that the Council encouraged them to seek permission to convert the garage, but I have considered the case on its own merits.

Planning Balance and Conclusion

12. The parties agree that the Council is not currently able to demonstrate a five year supply of land for housing. The appellant has stated that the presumption in favour of sustainable development applies due to an ongoing shortfall in housing supply and the Council has not provided any evidence to dispute this. As a result, in accordance with paragraph 11 of the Framework, the most relevant policies for determining the application should not be considered up to date. Paragraph 11 states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, from the evidence before me, there are no specific policies in the Framework that indicate that development should be restricted.
13. In the context of the development plan, I have found that the proposal would be contrary to policies ST3 and DM14 of the Local Plan. For this appeal, I have found the policies to be generally consistent with the relevant aims of the Framework which recognises in paragraph 170 the intrinsic character and beauty of the countryside and the need to contribute to and enhance the local environment. While the existing settlement boundaries carry reduced weight due to the housing shortfall, I have found significant harm to arise in the context of the policies stated above to which I attach substantial weight.
14. In terms of benefits, the proposal would make use of previously developed land, would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall, and occupiers would provide additional support to the vitality of the local community. Due to the small scale

² Application ref SW/14/0100

Appeal Decision APP/V2255/W/18/3217204

of the development these are limited benefits. While it would provide a limited amount of short term employment through the construction of the development, it would also result in the loss of the existing employment use, which is therefore a neutral consideration. The site is well located for access to the primary school and other limited services and facilities in Lower Halstow, by both pedestrians and cyclists, which is a moderate environmental benefit.

15. Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development, to which I afford substantial weight, significantly and demonstrably outweigh the benefits of the proposal, to which I have afforded limited to moderate weight. This material consideration indicates that the appeal should be dismissed.
16. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR