



Appeal Decision

Site visit made on 7 May 2019

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 June 2019

Appeal Ref: APP/V2255/W/18/3218833

The Old Woodyard, Land rear of Lord Stanley Bungalow, Otterham Quay Lane, Upchurch ME8 7UX

- 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 A Jarvis against the decision of Swale Borough Council.
 - The application Ref 18/502708/FULL, dated 11 May 2018, was refused by notice dated 3 August 2018.
 - The development proposed is the erection of two detached chalet bungalows with associated parking and extension of residential garden (serving Lord Stanley Bungalow) with revised access arrangements following demolition of existing building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the site is a suitable location for the proposed development, having regard to the settlement strategy, its accessibility to local services and facilities, and ii) the effect of the proposed development on the character and appearance of the site and surrounding area, including the Important Local Countryside Gap (ILCG).

Reasons

Suitable location

3. The appeal site comprises an area of hardstanding and buildings to the rear of a detached bungalow, with access onto Otterham Quay Lane. There is scattered development in the area, including industrial uses on the opposite side of the lane, but the clusters of built form are interspersed with open fields and a golf course, so that the area has a rural character and appears as part of the open countryside. It lies outside the defined boundary of any settlement.
4. Policy ST1 of the Swale Borough Local Plan 2017 (the Local Plan) seeks to deliver sustainable development that accords with the settlement strategy for the Borough. Policy ST3 sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the 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. As the site is not within a defined settlement, the proposed development for two dwellings is

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contrary to the settlement strategy for the area. I acknowledge that the site comprises previously developed land and due to the scatter of development around the appeal site it cannot be considered isolated. However, Policy ST3 does not make provision for an exception to the restrictive approach to development in the countryside for such sites.

5. In terms of its accessibility to local facilities and services, I saw on my site visit that there is a continuous footway along Otterham Quay Lane which leads to Otterham Quay and the edge of Rainham, where there are some services available, including a primary school. There is no continuous footway beyond the appeal site towards Upchurch, and in places the road is narrow with poor forward visibility, which would not encourage pedestrians to use it as a regular route. My attention has been drawn to a network of public rights of way, but I have seen no evidence that they would provide a realistic option to access local facilities and services on an everyday basis. I understand from the evidence that there are informal bus stops nearby, although I have seen no details of the frequency and destination of the services. This leads me to conclude that it is likely that future occupiers would be mostly reliant on the private motor car to access local facilities and services, either in Upchurch or in larger settlements such as Rainham and Sittingbourne. As a result, it would have relatively poor accessibility to local services and facilities.
6. For the reasons set out above, I therefore find that the site would not be a suitable location for the proposed development, having regard to the settlement strategy and accessibility to services and facilities. It would thus be in conflict with policies ST1 and ST3 of the Local Plan, which seek, amongst other matters, to deliver sustainable development that accords with the settlement strategy by restricting development in the open countryside. It would also be contrary to the guidance in the Framework.

Character and Appearance

7. The appeal site is within an area of scattered development, with industrial uses and mobile homes opposite the site, as well as ribbon development along Wallbridge Lane, and residential cul-de-sacs at Woodruff Close. However, the remaining areas of open land give the locality a rural character. The site contains a large outbuilding situated close to the rear of the existing bungalow, and some areas of storage, but at the time of my site visit it was otherwise open and cleared of most vegetation. As a result of the low profile of the existing buildings on the site, it appears relatively open and undeveloped in views from the rear and does not significantly impinge on the openness of the area. The site falls within an area between Upchurch and the administrative boundary with Medway Council, which is designated by Policy DM25 of the Local Plan as an ILCG. The area is designated in order to retain the individual character and setting of settlements, where development will not be permitted if it undermines one or more of the purposes of the gaps, which are set out in paragraph 7.7.35 of the supporting text.
8. The appeal proposal would result in an increase in built form on the site, and the formation of residential curtilages. The proposed dwellings would be noticeably taller and bulkier than the existing outbuilding and would spread development onto the open rear part of the site. As a result, the site would have a more developed and urbanised appearance, which would result in piecemeal erosion by built form of the countryside gap, and would fail to

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safeguard the open character of the countryside. It would thereby contribute to the erosion of the separate identities and character of the settlements. While I accept that the site is clearly defined and contained and has been in use as a woodyard, the proposal would nonetheless result in a more intensively developed site with a greater quantum of built form. While the site benefits from some screening on the boundaries, the proposed development would be apparent in glimpsed views from the surrounding area and Utterham Quay Lane. I therefore find that it would be harmful to the character and appearance of the area, including the ILCG.

9. As a result, I find that the proposed development would be in conflict with policies DM14, DM25 and ST5 of the Local Plan, insofar as they seek to retain the individual character and setting of settlements and conserve and enhance the natural environment. It would also be contrary to the guidance in the Framework.

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 I note that the appellant has provided a Unilateral Undertaking. However, as any consideration of that matter would not affect my findings on the main issues, and the appeal would in any case be dismissed, it is not necessary for me to address that matter any further as part of this decision.
11. I note that the Parish Council has expressed concern about the exit onto the highway, due to its location close to a bend. This is reflected in the comments from the Highway Authority, who considered that a relocation of the access further away from the bend, as suggested by the appellant, would be preferable. However, as I am dismissing the appeal, I have not pursued this matter further.

Planning Balance and Conclusion

12. 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 ST1, ST3, ST5, DM14 and DM25 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 site is not isolated, and the existing settlement boundaries carry much reduced weight due to the housing shortfall, I have found significant harm to arise in the context of the policies stated

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above. The proposal would result in significant harm to the rural character and appearance of the area, including the ILCG, and would result in the likelihood of a dependency on the use of the private car for access to services. As such it would be contrary to the aims of the Framework to recognise the intrinsic character and beauty of the countryside, to minimise the need to travel and to support the transition to a low carbon future.

14. In terms of benefits, the proposal would make use of previously developed land to 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. The proposal refers to measures to enhance the appearance and biodiversity value of the site, although limited details are provided, and improve drainage by reducing hard surfacing. These are benefits to which I attach limited to moderate weight. 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. I have seen no firm evidence that the use of the site as a woodyard generated significant levels of traffic, but it is unlikely that the proposed development would attract heavy goods vehicles, which is a limited benefit. The lack of harm to the residential amenity of neighbours is also a neutral consideration, as I have seen no evidence that the use of the site as a woodyard was harmful to their living conditions.
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