



The Planning Inspectorate

Appeal Decision

Site visit made on 16 September 2019

by **Hilary Orr MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/V2255/W/19/3231884

76 Brown Jug, Horsham Lane, Upchurch ME9 7AP

- 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 Finlon Ltd against the decision of Swale Borough Council.
 - The application Ref 18/506062/FULL, dated 19 November 2018, was refused by notice dated 21 January 2019.
 - The development proposed is the proposed residential development of 6 x 3 bed, 2 storey houses and associated access to/from Horsham Lane.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The address was slightly amended during the course of the application. This better describes the appeal site address and corresponds with that on the appeal form. As the Council have used this amended address in their decision, so shall I.

Main Issues

3. I consider that the main issues are:
 - Whether the proposal is in suitable location for new residential development, the effect of the proposed development on the character and appearance of the area, and whether there would be an over reliance on travel by private motor vehicles;
 - The effect of the proposed development on highway safety with reference to on-site parking and turning; and
 - The effect of the development on the Swale Special Protection Area (SSPA).

Reasons

Location of development

4. Policy ST3 of the adopted Bearing Fruits 2031: The Swale Borough Local Plan (2017) (LP) sets out the Councils settlement strategy for Swale. This policy resists development outside the built up area boundaries, unless supported by national planning policy, amongst other matters. The National Planning Policy

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Framework (the Framework) discourages residential development within the countryside in unsustainable locations.

5. The appeal site falls outside any built up area boundary and as such, is located in the countryside. Any residential development beyond the boundary established by the local plan, would therefore conflict with the aim of providing homes in accordance with the bars identified and the agreed settlement hierarchy.
6. The appeal site would therefore not be in a suitable location for additional housing, given its location outside any established built up boundary. Consequently, it would be contrary to policies ST3 and CP3 of the LP, that seek to provide new homes in accordance with the settlement hierarchy.

Character and appearance

7. The appeal site comprises a piece of land between the Brown Jug Public House, and the rear gardens of 40 to 43 Woodruff Close. There is an existing garage or outbuilding in the north eastern corner of the site. In common with other boundary treatments in the area, substantial hedging separates the site from the road, the rear gardens of Woodruff Close and the orchard that lies to the rear. The site is currently vacant and largely overgrown. The car park for the Brown Jug Public House lies immediately to the east, with the public house beyond.
8. The residential areas of Medway lie to the south west and Upchurch to the east. The area is mainly rural in character with a number of dwelling houses to the north of Horsham Lane. The land to the South of Horsham Lane is designated as an important Local Countryside Gap (LCG) although the site itself lies outside this designated area.
9. The pre-amble to Policy DM25 of the Local Plan sets out the purpose of the LCG. In summary it seeks to maintain separate identities and character of settlements by preventing the emerging; safeguard the open and undeveloped character of the areas; and prevent encroachment and piecemeal erosion by built development or changes to the rural open character.
10. The proposed development would introduce a terrace of six, three bedroom houses with associated amenity space, parking, and access from Horsham Lane. The houses would front onto Horsham Lane and would be set behind a new pedestrian footpath. Each dwelling would have a small front garden with additional gardens to the rear. Parking for seven vehicles would be provided to the rear of the dwellings. An additional two spaces are proposed to the east of the access road and a further two adjacent to Plot 6.
11. I acknowledge that there is residential development to the north of Horsham Lane. However, the appeal site currently provides an important break between the dwellings to the west and the public house and further dwellings to the east. This and the very rural and open character to the south of Horsham Lane within the LCG, gives the immediate area a strong sense of being in the countryside.
12. From my site visit I could see that, when travelling from west to east, the Brown Jug Public House appears to jut out into the road. Moreover, Horsham Lane narrows at this point, so vehicles have to slow down to pass those travelling in the opposite direction. Both of these factors make the building and

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car park highly prominent in the street scene. The introduction of a large row of terraced properties, set within small gardens would introduce a close grained form of development that would appear incongruous in this very prominent rural location.

13. For the above reasons I find that the proposed development of six terraced houses would introduce an overly dense form of development that would be in stark contrast with the predominantly rural character of the area. Consequently, the proposed development would cause significant and demonstrable harm to the character and appearance of the area. Accordingly, it is in conflict with policies ST1, ST3, CP3, DM9, DM14, DM24, and DM25 of the adopted LP. These policies when taken together seek to manage, protect, and where possible enhance the intrinsic value of the Countryside.

Travel

14. From the evidence provided, the proposed development would be served by two school busses with an additional bus for general public use. The timetables provided by the Appellant, show that this would offer a service to Rainham, Gillingham, Sittingbourne and Chatham, where a range of services, facilities and shops could be found. There is understood to be a bus stop at Woodruff Close, a short distance away. However, whilst the bus service may provide an alternative for future residents, it is an infrequent service which would be unlikely to override the need for private vehicles to access day to day facilities and services.
15. I recognise that the scheme would provide cycle storage for each of the dwellings. Nonetheless, Horsham Lane is generally narrow and unlit, and this would make cycling, especially in the winter months or after dark, a less attractive alternative to the private car.
16. Accordingly, in the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, I do not consider that the scheme provides a viable alternative to the use of private cars for future residents.

Highway safety and parking

17. Kent County Council, whilst not objecting to the proposed development have nonetheless requested a number of amendments to the parking layout. The Appellant has provided additional drawings within their statement for this appeal to demonstrate that these changes could be incorporated into the design. I consider that these amendments could be achieved through a suitably worded condition if the appeal were to be allowed. Accordingly, I do not find conflict with Policies DM7 and DM14 of the LP, and the appeal does not fail in this regard.

Effect on Swale Special Protection Area

18. The Habitat Regulations 2015 require an assessment to be undertaken, as to whether a proposal would be likely to have a significant effect, on the interest features of a protected site.
19. The appeal site lies within the zone of influence of the Swale Special Protection Area and would provide a net increase of six dwellings. Therefore, the development has the potential to cause harm to this designated area. I am

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aware that since the determination of the application the Appellant has submitted a unilateral undertaking, in respect of a contributions to secure the required Strategic Access Management and Monitoring payment. However, as I have already identified, substantive harm to the character and appearance of the area, such that the appeal should be dismissed, there is no need to consider this further.

Other matters

20. My attention has also been drawn to the development at Woodruff Close to the west of the site. This comprises a development of larger dwellings set in larger plots. I have not been provided with the full history for this site but from the limited evidence I have, the circumstances for granting permission were significantly different from those found at this site. In any event I have to determine this appeal on its own planning merits, and its presence would not justify granting this appeal.

Planning balance and overall conclusion

21. The Council confirms that it does not have a 5-year supply of housing sites in place. The Council's policies that relate to the supply of housing are therefore out-of-date. Paragraph 11 of the Framework is therefore engaged, which states that 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.
22. I acknowledge that the proposal would provide limited social and economic benefits, through the build process and the provision of electric vehicle charging points. The proposed development would also contribute toward the Borough's targets for housing delivery and 5-year land supply. However, given that the proposal would only provide six dwellings, I attach moderate weight to these social and economic benefits.
23. A number of letters of support have been received and in summary include: The proposed development would lead to an improvement of the site; The new footway would improve pedestrian safety; The design of the proposal would be in keeping with the rural setting; The proposal would provide good quality and attractive homes.
24. Notwithstanding all of the above, the proposed development would not conform with the settlement strategy of the Borough, it would cause substantial harm to the character and appearance of the area and it would create the need for travel, placing it in conflict with the environmental objectives of sustainability as set out in paragraph 8 of the Framework, and this weighs very heavily against the scheme. When the Framework is considered as a whole, I find that the scheme does not constitute sustainable development. This is because the positive housing land supply, and any other benefits, are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.

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25. Having regard to the above findings the appeal should be dismissed.

Hilary Orr

INSPECTOR