

3.2 REFERENCE NO - 20/504048/FULL			
APPLICATION PROPOSAL Erection of a detached dwelling with associated access and parking.			
ADDRESS Land Adjacent To Rose Cottage 10 The Street Bredgar Kent ME9 8EX			
RECOMMENDATION - Refuse			
REASON FOR REFERRAL TO COMMITTEE Called in by Councillor Bonney			
WARD West Downs	PARISH/TOWN Bredgar	COUNCIL	APPLICANT Mr & Mrs Allen AGENT Corstorphine + Wright
DECISION DUE DATE 05/11/20		PUBLICITY EXPIRY DATE 15/10/20	

Planning History of application site

20/501077/OUT

Outline application for the demolition of existing barn and erection of a detached dwelling and garage with carport (Access and layout being sought).

Withdrawn Decision Date: 19.05.2020

Planning History of nearby site

SW/96/0002

6 local needs semi-detached three-bedroom houses (now known as Smith's Orchard)

Approved Decision Date: 25.09.1996

1. DESCRIPTION OF SITE

- 1.1 The site is an area of open undeveloped land, formerly an orchard, situated on the southern edge of the village of Bredgar with access from the end of Travers Gardens where it turns into Smith's Orchard. The whole of the site lies just outside the Local Plan defined built-up area boundary of the village, which abuts the site to the north. There are six modern residential dwellings to the west (Smiths Orchard) which were built as rural exception affordable housing, and to the east are properties on and behind The Street most of which are within the Bredgar conservation area, and some of which are listed buildings.
- 1.2 The site is near to but not within the village conservation area, but it is all within the Kent Downs Area of Outstanding Natural Beauty. A public footpath runs from The Street to the end of Travers Gardens and then on to Silver Street, passing across the northern boundary of the application site. The two houses immediately to the east of the site are outside the Local Plan defined built up area of the village which is focused on the church, the village pond and development along road frontages.

2. PROPOSAL

- 2.1 This full application is for the erection of a U shaped bungalow with attached single garage. The bungalow would be finished in render, timber cladding and facing brickwork under a slate tile roof which would contain eleven rooflights. In design terms, the front of the bungalow would be fairly orthodox, but the south facing rear elevation would be quite contemporary, with high gables containing large grey aluminium framed glazed areas. The bungalow would provide four bedrooms (one with en-suite); a large open kitchen/living/dining area; a bathroom; and an attached single garage.
- 2.2 A generous area of garden would surround the new bungalow and the driveway would accommodate at least four cars as it sweeps across the full width of the bungalow to the proposed garage. Access would be from Smiths Orchard where there are currently gates set in the high solid timber boundary fencing.
- 2.3 The application is accompanied by a Design and Access Statement which incorporates a Heritage Statement. From this I draw the following points:

The proposed single storey house is a 4 bedroom dwelling, with associated landscape, accessed via an existing gate off Smiths Orchard.

The scale and bulk of the proposed building is felt to pose no harm to the surrounding properties. The proposal offers a good opportunity to create high quality dwelling having little impact on the character of the area.

The proposal intends to blend modern features, such as glazing projecting bays, trapezoidal windows, with some features more typical of rural Kentish architecture, i.e. wooden porch, gable ends.

This is to ensure the proposed dwelling is in keeping with the surrounding area. The material selection has been base on the idea of blending traditional materials with the rural context.

The proposed scheme is believed to sit comfortably within the site, with proportioned landscaping and hardscaping areas. The proposed garage and driveway ensure parking will be on site. The rear patio area and garden will guarantee a good level of amenity area to the property

3. PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Outside established built-up area boundary

4. POLICY AND CONSIDERATIONS

Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies ST3, CP4, DM7, DM14 and DM24

Policy ST3 states that:

The Swale settlement strategy

At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

Policy DM24 states:

Conserving and enhancing valued landscapes

The value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed.

Part A. For designated landscapes areas:

Within the boundaries of designated landscape areas, as shown on the Proposals Map, together with their settings, the status given to their protection, enhancement and management in development decisions will be equal with the significance of their landscape value as follows:

- 1. The Kent Downs Area of Outstanding Natural Beauty (AONB) is a nationally designated site and as such permission for major developments should be refused unless exceptional circumstances prevail as defined by national planning policy. Planning permission for any proposal within the AONB will only be granted subject to it:
 - a. conserving and enhancing the special qualities and distinctive character of the AONB in accordance with national planning policy;*
 - b. furthering the delivery of the AONB's Management Plan, having regard to its supporting guidance documents;*
 - c. minimising the impact of individual proposals and their cumulative effect on the AONB and its setting, mitigating any detrimental effects, including, where appropriate, improving any damaged landscapes relating to the proposal; and*
 - d. being appropriate to the economic, social and environmental wellbeing of the area or being desirable for the understanding and enjoyment of the area.**

Supplementary Planning Guidance (SPG) entitled "Parking Standards" (May 2020) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications. The recommended parking provision for a four property here is at least three spaces with 0.2 spaces per property as visitor parking.

Relevant policies of the Kent Downs AONB Management Plan state:

SD1 The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of

protection within statutory and other appropriate planning and development strategies and development control decisions.

SD3 New development or changes to land use will be opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB.

SD8 Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.

LLC1 The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

The National Planning Policy Framework (NPPF) at paragraph 8 sets out the overarching objectives of sustainable development as:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

At paragraph 11 the NPPF sets out the approach to decision making as:

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. 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.*

Importantly, footnote 6 to paragraph 11 d i says that:

The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

At paragraph the NPPF sets out its approach to AONBs:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

In relation to personal circumstances the National Planning Practice Guidance (NPPG) states:

Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

5. LOCAL REPRESENTATIONS

5.1 Four objections have been received from local residents. The comments contained therein may be summarised as follows:

- The site is outside built up area boundary where the Local Plan clearly states that development will not be permitted unless it can enhance the intrinsic value, landscape setting, tranquillity and beauty of the countryside
- Very large property, out of scale and equivalent to the size to all four single storey properties in Travers Gardens put together
- Much larger than any other single storey dwelling in the area
- The site is part garden and part orchard containing trees, some of which have already been removed, and this application will clear the way for other properties to be built on this land leading to loss of the significant gap between Bush Close, Smith's Orchard and Travers Garden
- It may lead to pressure for development on other land outside the built up area boundary where development has previously been declined
- The site is within the Area of Outstanding Natural beauty and does not comply with the Local Plan

- The Parish Council recognises that an exception to the Local Plan would need to be made, there should not be different rules for different people
- The previous gifting of land for Smith's Orchard should not affect the decision now
- How many more exceptions would need to be made for family members in the future?
- Parking issues in Travers Garden
- Increase in traffic and concern over safety of the access close to a bend where traffic moves at speed and cars park

5.2 The applicant has responded to these objections as follows:

'In response to the comments received, we would like to address the concerns raised about the application which may not have been communicated clearly.

Design & Scale - The proposed dwelling has been designed to minimise adverse impact to the surrounding area and will be sited behind the fence line. Previous concerns were raised on the original application for a two-storey home due to overshadowing and so the design was modified to a single-storey only. Additional trees will be planted to enhance the appearance of the land and reduce the visibility from the road. The dwelling has been designed to reflect the architectural character and appearance of the existing buildings in Bredgar, in-keeping with the rural vernacular. It is intended as a family forever home and not a retirement bungalow and so is of a similar size to the detached properties to the east.

Traffic - Regarding the concerns raised about increased traffic, there will only be two cars at the property which will be parked on the driveway. Any visitors will also have space to park on the driveway too, again, behind the fence line. The entrance was sited by Kent Highways when Smiths Orchard was built and it has been used safely with no issues ever since. The cars from the proposed dwelling will come out facing the traffic and will have clear vision in all directions; houses in Travers Gardens have to cross over a footpath. Furthermore, this road is not overrun with traffic and village events are not frequent enough to cause congestion.

Trees - An old chestnut tree was removed from the land a couple of months ago. This tree was located on a private garden area and had become too overgrown. Additionally, this tree was dead in parts and caused problems in the Summer and Autumn when the catkins and spiny-cased nuts would clog up the mower. We contacted Swale Borough Council to make sure there were no tree preservation orders on it before taking it down. The only other tree removed was a sucker (and brambles).

AONB & Boundary Lines - Although the site is just outside of the building boundary area, it is surrounded by houses on three sides. The proposed dwelling is only taking up a small corner of the entire land and has been carefully designed to preserve and enhance the character of the Kent Downs AONB and the neighbouring Bredgar Conservation Area. Therefore, it should have little, to no harmful impact on the surrounding heritage assets. Historically, the building boundary line has been moved to create Travers Gardens, Bush Close and Smiths Orchard, which once belonged to the same piece of land.

Other properties being built - This is an application for one property only. We wish to build a house here to be closer to our relatives to help them maintain the land for years to come. We are very mindful of the surrounding nature and the last thing we want is for a development to be built and ruin the feel of the countryside.

We hope these comments address any future concerns about the application.'

5.3 One objector has responded to these points to say, in summary;

- Although the applicant says it only takes up a small corner of the land the whole piece is outside the built up area boundary. The boundary line has only been moved to allow much needed social/shared ownership housing
- This still left a significant gap
- The development does not meet the criteria of the Local Plan. Wanting to build a property to be near family is not relevant to the Local Plan.
- If an exception is made now there may be other family members who may wish to build on other pockets of land in the village
- The scheme would dominate Travers Gardens and would not enhance the natural beauty of the countryside
- The existing entrance to the site is rarely used and it is difficult to know if there would be an issue with traffic. Travers Garden is used for parking for events in the village and for parents walking to the school

5.4 Six responses of support have been received from local residents. The comments contained therein may be summarised as follows:

- *'As owner of Rose Cottage I have looked back at all the old deeds regarding this property and the land used to go right over to the recreation ground and has gradually been sold off over the years for properties to be built on i.e. Travers Gardens and Bush Close. In 1995 my parents were approached by the Parish Council so that affordable housing could be built on part of the land to bring youngsters back to the village. My parents agreed to this and so Smiths Orchard was built. Each time these houses were built the building boundary was moved. The only parcel of land remaining is to the west of our house and it is surrounded by houses on three sides. As a family we have given land over to enable affordable housing to be built so it only seems fair that a house can be built on this parcel of land to enable a youngster who grew up and loves this village to come back to live here. The scheme being proposed is only a single storey dwelling compared with the majority of the two storey houses previously built on the land so it will have no detrimental impact on the surrounding area.'*
- Bringing young life into the village is a good thing – the family have been in residence and grew up here - it should be possible to re-establish themselves into the village and in turn support the local school and the wider village community

- If it was not for this family our dwellings would not have been erected. For that we are very grateful
- It is time to give a little back to this family and to ensure they too have the opportunity to be near their family and assist them as the years go by
- It would be helpful to have family living close by
- The property will use a small fraction of the land adjacent to Rose Cottage
- Two additional cars using the access road will not cause any undue traffic noise or increase the flow of the traffic, which is very minimal in that area of the village.
- In keeping with surrounding properties and will not have an adverse impact

6. CONSULTATIONS

6.1 Bredgar Parish Council has commented as follows:

‘The land identified for the proposed development falls outside of the building boundary shown on the Local Plan and is in the AONB. These facts indicate that a special exception would have to be made, for the application to be approved.

The reason for the development as brought forward to the Parish Council is to enable a young couple with strong family connections to the village, to take up residence in the village. Historically, the family have made a significant contribution to the village, in gifting land for the Smith’s Orchard affordable housing, back in the late eighties. Taken together, the Parish Council is persuaded that these are unique and may be compelling reasons to accept the development.

Bredgar Parish Council raises no objection to the proposed development, if Swale Borough Council are minded to allow it as an exception to the Local Plan.’

6.2 The County Archaeological Officer notes that the proposed development is located in an area that is archaeological sensitive, close to the finding of a hoard of roman gold coins just north on Gore Lane. A further 14th century hoard was found to the east. The Roman hoard is early in date and particularly significant and has been speculated to be associated with the Roman invasion march through Kent. Iron Age and Roman remains have been recorded in the village centre at the primary school.

6.3 He notes that the proposals involve the development of a new dwelling and access on previously undeveloped land. Therefore given the potential impact of the development on buried archaeological remains it would be appropriate to make provision for a programme of archaeological work in any forthcoming consent. He recommends that a condition for a programme of archaeological work should be attached to the permission if the application is granted.

6.4 Kent Highways and Transportation advise that the proposal does not meet the criteria to warrant involvement from the Highway Authority.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers for application 20/504048/FULL.

8. APPRAISAL

- 8.1 The main issue to consider in this case is the principle of development on this site in itself, as the site is situated outside the Local Plan defined built-up area boundary and within the Kent Downs AONB.
- 8.2 The key principle at stake in this case is that of constructing a new build residential property outside the built up area boundary. There are a number of planning policies which would preclude such development. Such proposals represent unnecessary and undesirable development in the countryside, which would be contrary to policies ST3 and DM14 of Bearing Fruits 2031: the Swale Borough Local Plan 2017.
- 8.3 Although Bredgar has a range of local services, the proposal site is some distance from any major local services and amenities, such as supermarkets and surgeries, with only a farm shop for daily needs. Therefore, it seems sensible to assume that any journeys for services, shopping, etc. would need to be to Sittingbourne, and that these journeys would usually need to be made by private car, although I acknowledge that there is a bus route serving the village. As such, I consider the site to be an unsustainable location for new housing, and the National Planning Policy Framework (NPPF) in Paragraphs 7 and 8 states that new development should be sustainable. I therefore consider that the proposal would be contrary to national planning policy.
- 8.4 Having regard to the Government's Housing Delivery Test (HDT) Swale has an identifiable 4.6 years supply of housing land, or a shortfall of 0.4 years which amounts approximately to an additional 400 dwellings per annum. This potentially triggers the so-called tilted balance in favour of new development as housing policies (including the Local Plan's built up area boundaries) can be said to be out of date (but not irrelevant). However, the Judges' ruling in *Hallam v SoS and Eastleigh Borough Council (2018)* states (in extract):

50. First, the relationship between housing need and housing supply in planning decision-making is ultimately a matter of planning judgment, exercised in the light of the material presented to the decision-maker...

51. Secondly, the policies in paragraphs 14 and 49 of the NPPF do not specify the weight to be given to the benefit, in a particular proposal, of reducing or overcoming a shortfall against the requirement for a five-year supply of housing land. This is a matter for the decision-maker's planning judgment, and the court will not interfere with that planning judgment except on public law grounds. But the weight given to the benefits of new housing development in an area where a shortfall in housing land supply has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet.

52. But it seems implicit in the policies in paragraphs 47, 49 and 14 of the NPPF that the decision-maker, doing the best he can with the material before him, must be able to judge what weight should be given both to the benefits of housing development that will reduce a shortfall in the five-year supply and to any conflict with relevant "non-housing policies" in the development plan that impede the supply.

- 8.5 The SoS, in assessing the development subject to the above decision, considered a shortfall of 0.5 years to be “limited”. In that regard I consider a shortfall of 0.4 years to be similarly limited. I am of the opinion that one dwelling would make a very limited contribution towards meeting that shortfall. Such contribution could be made in more acceptable (in policy terms) and sustainable locations elsewhere in the Borough. There is no need for the housing land shortfall to be addressed at this location, and other more acceptable locations should first be considered. The Council has commenced preparing a Housing Action Plan to address the shortfall. In addition, a number of major developments are coming forward in the short term which will contribute significantly to the Council’s supply and reduce the shortfall in broad strokes.
- 8.6 I would suggest, therefore, that the identified 0.4 years shortfall of housing land supply should be given limited weight in the consideration of any such proposal on this site. This approach is inline with numerous recent appeal decisions for single dwellings outside Local Plan defined built up area boundaries.
- 8.7 It may well seem harsh to some that this site, bordered so closely by existing housing, has thus been excluded from the built up area boundary, but boundary lines like this are not drawn without purpose or in the absence of careful deliberation, and are not accepted without independent examination for soundness. Such boundaries are also not to be regarded as ‘fuzzy edges’, and to do so, even where only single dwellings are proposed, would inevitably lead to incremental outward expansion of the urban area, the piecemeal erosion of its rural margins and the undermining of the quantitative and locational reasons that gave rise to the actual boundary alignment.
- 8.8 Notwithstanding this, footnote 6 to paragraph 11 d i of the NPPF excludes application of the tilted balance where approval of the development would conflict with other policies including protection of an AONB. Thus the tilted balance does not apply here and the policies of the Local Plan do not need to be set aside. This has been a consistent theme of recent appeal decisions.
- 8.9 The Kent Downs AONB is designated primarily to conserve and enhance natural beauty. The application site in undeveloped land that forms an integral part of the AONB. Despite being hidden by tall fencing the open nature of the site marks clear contrast between the built up part of Bredgar and its attractive rural surroundings. Developing the site with a more intensive development would fail to safeguard the open undeveloped character of this part of the countryside and AONB. I, therefore, consider that the proposal would be harmful to the character and appearance of the area. In my view, the erection of a new dwelling here will encroach onto the AONB and reduce its value in a way which would have long term negative consequences for its future. The site marks a defensible and appropriate boundary to the village which, if breached, will become more difficult to manage, with potentially unforeseen consequences, especially if it is seen to erode or reduce the value of the existing gap between parts of the village.
- 8.10 In terms of highway safety issues I can appreciate local concern about additional traffic using the existing access to the site. This is simply wooden gates in a tall wooden fence, which would not be a safe arrangement for regular traffic use. However, the application indicates the availability of plenty of car parking within the site, and if planning permission were to be granted, planning conditions could be applied to require suitable

visibility splays and front boundary treatments to be approved which could ensure safety on what is a little used access road serving just six houses. I do not consider that highway safety is an overriding reason for refusal of this application.

- 8.11 Local support for this application as an exception to rule is based on the past contribution that this family has made in giving land for the erection of affordable housing. Whilst I applaud the community spirit shown by the family, this is not a matter that should play any part in determining the current application. This is essentially a personal issue, rather than a planning issue, and planning decisions must be made on planning grounds. The NPPG advice is that planning conditions should not be applied to achieve a personal planning permission, and in the absence of any such condition the development would simply be just another house beyond the village boundary, encroaching on the AONB to the detriment of the amenities of the area.

9. CONCLUSION

- 9.1 This site has been deliberately excluded from the built up part of the village in the Local Plan. It is within the AONB and therefore in an area where the public could reasonably expect firm and unambiguous development restrictions to apply. In what is a plan-led system I consider it vital that confidence in the Plan is maintained and I see no alternative but to very strongly recommend that this application is refused.

- 10. RECOMMENDATION** - Refuse for the following reasons:

REASON

- (1) The proposed bungalow, being situated outside of the Local Plan defined built-up area boundary of Bredgar and within the Kent Downs Area of Outstanding Natural Beauty would constitute unsustainable, unnecessary and unwelcome development which would cause harm to the character and appearance of the area and detract from the natural beauty of the Area of Outstanding Natural Beauty, contrary to Policies ST3, DM14 and DM24 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017 and to policies SD1, SD3, SD8 and LLC 1 of the Kent Downs AONB Management Plan.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

