



Appeal Decision

Site visit made on 9 February 2021

by **Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **22 March 2021.**

Appeal Ref: APP/V2255/W/19/4001052

Former car park, Oad Street, Borden, Kent ME9 8LB

- 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 A Hinge against the decision of Swale Borough Council.
 - The application Ref 19/505028/FUL, dated 7 October 2019, was refused by notice dated 19 December 2019.
 - The development proposed is Erection of 2 x 3 bedroom dwellings, means of access, plus associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is accompanied by a Unilateral Undertaking which I comment on later in this decision.
3. The appeal was submitted with revised plans which differ from those considered by the Council in making its decision. For reasons of fairness in respect of *Wheatcroft*¹ and consistency I have determined this appeal on the basis of those plans on which the Council based its decision.

Main Issues

4. The appeal scheme raises 2 main issues:
 - Whether or not the location of the site complies with national and local policies for development, and
 - The character and appearance of the streetscene with particular reference to the setting of nearby listed buildings.

Reasons

Location of proposed development

5. The appeal site is a vacant plot lying on the south side of Oad Street which was previously used as a car park for a local public house and which is now used as a restaurant. On either side of the site are detached residential properties including 2 Grade II listed buildings, Hoad House and Olde House. To the rear of the site are fields.

¹ Bernard Wheatcroft Ltd v SSE (JPL 1982 P37)

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6. The village is isolated and has few services apart from the restaurant, a plant nursery and craft centre. A limited bus service operates through the village to Sittingbourne.
7. The location of the appeal site would not readily enable access to a range of services without the use of private transport. Policy ST1 of the Local Plan² seeks to enhance the vitality of Sittingbourne, Faversham and Sheerness whilst also supporting a prosperous rural economy.
8. Oad Street is a distinct hamlet and accordingly, is identified in Policy ST3 of the Local Plan as forming part of the countryside. The policy identifies that in such areas new housing may be justified but only where it is essential for the social, economic and environmental health of a community. The appellant has not sought to substantiate the reasons how the proposed development could meet these requirements.
9. I am not persuaded that the absence of the Council's 5 year housing land supply is a strong enough argument in itself to substantiate development on the appeal site. In this respect many of the arguments against the proposed scheme reflect those used by my Inspector colleague in his decision on proposals for new development on a site on Woodgate Lane³.
10. Although the parties may differ on their interpretation of the 'accessibility matrix' included in supporting text to Policy ST3, this is only an indicative map of the Borough and has to be read in this way.
11. Policy DM14 of the Local Plan introduces a range of criteria against which the development proposals should be assessed. DM14 1. identifies that development is required to adhere to the adopted development plan. Given the settlement hierarchy the development of this site would conflict with this overriding policy.
12. For these reasons, I conclude that the appeal scheme would conflict with Policies ST1, ST3 and DM14 of the Local Plan 2017.

Character and appearance

13. There is no clearly defined character to the streetscene along Oad Street where the appeal site is located. The composition of this street includes semidetached cottages and large detached properties some of which are set in generous curtilages. The buildings reflect the distinct periods in the development of this hamlet.
14. Whilst the Council describes Oad Street's character as 'loose knit' caused by gaps in the street scene, I regard this feature as a product of the varied architecture of the properties, the size of the plots and the relationship of buildings to their respective boundaries.
15. Of more significance to this main issue is the relationship of the appeal scheme to the setting of these listed properties. The Framework defines 'setting' as the surroundings in which a heritage asset is experienced. I regard the appeal site as forming part of the setting of both the Olde House and Hoad House which lie immediately opposite and next to the appeal site respectively.

² Bearing Fruits 2031: the Swale Borough Local Plan 2017

³ APP/V2255/W/19/3232325

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16. Both properties originally date from the sixteenth century and are fine examples of local vernacular architecture. Each property is set in a generous curtilage which diminishes their scale and size. The Olde House is a restored timber framed house with plaster infill and plain tiled roof. It has 2 storeys with 3 hipped dormers. The building is orientated perpendicular to the appeal site. It has a generous garden which wraps around the whole house.
17. Lying next to the appeal site, Hoad House dates from the sixteenth and nineteenth centuries and is set on a flint plinth, clad in red brick with roof tiles. The house is set back from Oad Street, is secluded and separated from its boundary with the appeal site by its garage drive.
18. I acknowledge that the appeal scheme has been designed to reflect this important context. The proposed building is set on a notional building line drawn between Hoad House and Hope cottage. This sets the proposed building back by several metres into the site reducing the extent of impact of the proposal on the Olde House.
19. Furthermore, the scheme design involving a pair of asymmetrical semidetached properties would provide interest in the streetscene and echoes a more organic form of development characteristic of an earlier period. I acknowledge that the use of red brick and white fascia board for the elevations, whilst common to other parts of Kent, are not appropriate for this scheme in this location.
20. The scheme's roof has a steep pitch with a ridge line of 9.5m. For this reason, the proposed building would dominate the two listed buildings. The set back of the scheme from the frontage and from the common boundary with Hoad House does not sufficiently mitigate for the harm which would arise to both listed buildings from this height. Furthermore, I do not consider that the evergreen tree screen along the site's common boundary with Hoad House can be regarded as providing a permanent screen. Again, despite the set back of Hoad House from its boundary with the appeal site the height of the appeal scheme would prevail.
21. The appellant has referred me to a decision of an Inspector colleague who allowed an appeal⁴ on a site next to Hope cottage. However, this decision can be distinguished from the appeal before me as the site lies away from both listed buildings.
22. Policies DM14 and DM32 of the local plan require that development should respect the setting of designated heritage assets. The appeal site enjoys an intimate relationship with both listed buildings but would cause harm to the setting of the two listed buildings of which it forms a part.
23. Whilst I find that the resultant harm to the significance of the listed buildings would be less than substantial, no public benefits have been identified by the appellant and in these circumstances the harm is sufficient to warrant a dismissal of this appeal.
24. I acknowledge the concern of the interested parties in respect of the potential for harm to their living conditions but the key point of this main issue is the effect of the proposals on the listed buildings.

⁴ APP/V2255/W/15/3129434

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25. I am not persuaded that development on this site would be in conflict with Policy DM26, which seeks to protect rural lanes from increases in traffic given the site's lawful use as a pub car park.
26. For the above reasons, I conclude on this main issue that the appeal scheme would conflict with Policies DM14 and DM32 of Bearing Fruits: The Swale Borough Plan 2017.

Other matters

27. The appeal site is located within 6km of the Swale Special Protection Area (SPA) which is a European designated site afforded special protections under the Conservation and Habitats and Species Regulations 2017, as amended. The appellant has included in a Unilateral Undertaking a contribution to meet the requirement of the Council's adopted Strategic Access Management and Monitoring Strategy. However, as I am dismissing this appeal I do not have to consider this matter further.

Planning balance and conclusions

28. Both parties acknowledge that the Council is not meeting its 5 year housing land requirement.
29. In these circumstances, Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted, where the development plan is absent, silent or relevant policies are out-of-date, unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. The protection of Listed Buildings is one such area or asset, and given I have found very special circumstances do not exist, the tilted balance does not apply in this case.
30. For the above reasons the appeal is dismissed.

Stephen Wilkinson

INSPECTOR