

2.4 REFERENCE NO - 14/504785/FULL		
APPLICATION PROPOSAL Proposed replacement dwelling and garage.		
ADDRESS 2 Swaysdown Game Farm School Lane Iwade Kent ME9 8QH		
RECOMMENDATION Approval subject to the comments of Natural England		
SUMMARY OF REASONS FOR RECOMMENDATION The current proposal adequately addresses the previous reasons for refusal and the grounds for the dismissed appeal. The proposal would therefore comply with policy RC4 and would be acceptable in principle in my view. I consider that the design of the dwelling and garage would be appropriate for this rural area.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Iwade & Lower Halstow	PARISH/TOWN Iwade	COUNCIL
APPLICANT Mrs P MacKenzie		AGENT Mr Keith Plumb
DECISION DUE DATE 12/12/14	PUBLICITY EXPIRY DATE 12/12/14	OFFICER SITE VISIT DATE 11.12.14
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

SW/00/0547: Application for Lawful Development Certificate for the stationing of one residential caravan. APPROVED 20th July 2000

SW/10/1122: Replacement of existing mobile home with a two storey detached dwelling and detached double garage with storage space at ground and first floor REFUSED 29th October 2010 on the 3 grounds summarised as follows:

1. The dwelling by reason of size, design and siting would harm rural character of area and result in loss of small affordable rural home and harm area of high landscape value.
2. Proposed dwelling and attached garden would be sited outside acknowledged domestic curtilage harmful to character of area.
3. Failure to enter into legal agreement to secure removal of mobile home would result in additional unit of accommodation harmful to character of the area.

SW/11/471: Application for a Lawful Development Certificate to establish the lawful use of land as residential garden – APPROVED 27th January 2012

SW/12/0963: Replacement dwelling (2 storey) and garage for no. 2 Swaysdown within the same application site. This application was refused on the following grounds:

1. *The proposed house by reason of its size, design and siting represents an unacceptable encroachment of built mass into an otherwise wholly open area to the detriment of the character and appearance of this rural area. It will also result in a substantial increase in built mass compared to that of the mobile home it is intended to replace while resulting in the loss of a small dwelling. The proposal is therefore considered contrary to the provisions of policies E6 and RC4 of the adopted Swale Borough Local Plan 2008.*

2. *In the absence of an ecological assessment, it has not been demonstrated that the proposed development would not cause harm to any protected species at or nearby the site. The proposal is therefore contrary to the provisions of policies E1 and E11 of the Swale Borough Local Plan 2008.*

SW/13/0403: Replacement dwelling (bungalow) and garage. This application was refused on the following grounds:

1. *The proposed house by reason of its size, design and siting represents an unacceptable encroachment of built mass into an otherwise wholly open area to the detriment of the character and appearance of this rural area. It will also result in a substantial increase in built mass compared to that of the mobile home it is intended to replace while resulting in the loss of a small dwelling. The proposal is therefore considered contrary to the provisions of policies E6 and RC4 of the adopted Swale Borough Local Plan 2008.*

This application was later dismissed at appeal (see **Appendix A**) on the grounds that the development would have an adverse impact, by virtue of its size, height, location and overall design, on the character and appearance of the area and harm the current open character of this countryside site.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located within the countryside and the northern part of the site (location of the new dwelling) lies within an Area of High Landscape Value (policy E9). The Medway Estuary & Marshes SSSI (policy E11) and a Special Landscape Area (policy E9) lies 490 metres to the north of the site. The site also lies within a Strategic Gap (Policy E7).
- 1.02 The application site totals approximately 0.24 ha. It incorporates part of a vehicular trackway that leads from the main access through to a wider area of land used as part of the applicant's turf business. The access to the site is via narrow unmade track leading from School Lane. There are currently two static mobile homes on the land (no. 1 Swaysdown Game Farm is owned by the applicant's brother) and a number of buildings used in connection with the turf business. The land to the north and east and west is characterised by low lying agricultural and marshland. To the south, with access from the same track described above, there are at least two separate small private gypsy sites, one residential property and a long-established commercial site. Iwade village lies 880 metres to the east as the crow flies. Via public footpaths, Iwade village is 1.046km to the east and via the track and School Lane –it is 1.6km.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a three bedroom bungalow and separate double garage. The proposal would result in the removal of an existing mobile home and garage within the same application site. The proposed dwelling would be located in the same location as the mobile home to be removed, except that it would be orientated differently. The proposed double garage would be located 25 metres away from the main dwelling to the north and within the established garden area of the property. This garage would be very close to the existing garage to be removed.

- 2.02 The proposed bungalow would have a pitched roof and would be of a simple rectangular form and architecture. There are no rooms provided within the roofspace. The double garage would also have a pitched roof with barn hips to mirror the roof of the main dwelling. There would be a storage room to the side of the garage. The roof would have plain clay tiles and stock brickwork to the elevations of the dwelling. The garage would be finished with featheredge weatherboarding.
- 2.03 The proposed garage would have a very similar size floorspace to the existing garage. The proposed dwelling would provide an additional 56.6 sq m of floorspace which equates to a 113% increase.
- 2.04 This application has been amended to change the design of the roof to the proposed garage, removing dormer windows and introducing barn hips. The roof to the proposed dwelling would also be reduced in height by 300mm. This has been achieved by reducing the angle of the roof from 40° to 37°. The amendments were in response to Officer's concerns in respect of the height and dominance of the roof and 'domestic' appearance of the garage.

3.0 PLANNING CONSTRAINTS

- 3.1 The site lies within the SSSI consultation zone.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.1 The National Planning Policy Framework sets out at paragraph 14 that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 4.2 Paragraph 55 seeks to promote sustainable development in rural areas. It states that: *'housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
 - *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
 - *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
 - *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.'*

Swale Borough Local Plan 2008:

- 4.3 All policies cited have been 'saved' by the Secretary of State. However, because the 12 month period provided by the NPPF, within which all saved policies could be given full weight, has expired and because this Council does not have an up to date development plan, a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF was necessary. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below, with the exception of policy H2, are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.4 Policy E1 gives general guidance regarding design and amenity, amongst others. Specifically, it states that all development proposals should include information sufficient to enable the Council to determine the application, should protect and enhance the natural and built environments and, should be of an appearance that is appropriate to the location.
- 4.5 Policy E6 allows appropriate development within the countryside. This includes: necessary agricultural development, re-use or adaption of an existing rural building, the acceptable rebuilding or modest extensions of a dwelling currently in residential use, affordable housing and, sites for gypsies. The policy seeks to direct growth to areas allocated in the plan, brownfield sites and existing settlements. In Areas of High Landscape Value, the priority is the protection and enhancement of the integrity, character and local distinctiveness of these Borough Assets, whilst considering the needs of local communities. It seeks to protect the quality, character and amenity value of the countryside. Development not covered under policy E6 will not be permitted.
- 4.6 Policy E7 seeks to ensure that development does not result in the merging of settlements and the piecemeal erosion of the countryside.
- 4.7 Policy E9 seeks to protect the quality and character of the Borough's landscape. Development proposals within the rural area are expected to be sympathetic to local landscape character and quality and minimise the adverse impacts of development upon the landscape. This policy refers to the Landscape Character Assessment and Guidelines SPG. This has now been superseded by the Swale Landscape Character and Biodiversity Appraisal (2011) (SPG) (detailed below).
- 4.8 Policy E19 aims to achieve high quality design on all developments in the Borough.
- 4.9 Policy H2 seeks to encourage the provision of new houses within the built-up area. With regards to compatibility with the NPPF, this policy is highlighted as being non-compliant in the case of a weak five-year land supply situation. Essentially, where there is a weak housing land supply, the provision of new houses outside of the built-up area boundary will potentially be acceptable. Careful additional justification for refusal may be required to demonstrate that any adverse impacts would significantly and demonstrably outweigh the benefits. However, this should be read in conjunction with paragraph 55 of the NPPF.
- 4.10 Policy RC4 allows the rebuilding of an existing dwelling in rural areas only if the proposed new dwelling is of a similar size and proportion to the original dwelling, and is erected on, or close to, the position of the original dwelling. For dwellings in the rural area with an existing external ground floor area of 50 sq metres or more, the Council will permit only modest extensions (taking into account any previous additions), of an appropriate scale, mass and appearance to the location.

- 4.11 Policy T3 seeks to ensure that there is sufficient vehicle parking.
- 4.12 The Swale Landscape Character and Biodiversity Appraisal (2011) identifies the site as being within the Lower Halstow Clay Farmland. These farmlands extend from the edge of the Chetney Marshes to Lower Halstow. Here there is a complex mixture of truly rural landscapes. It contains isolated farms and cottages and small-scale industrial works at Bedlams Bottom. At its north-eastern periphery, there is small-scale urban and industrial development and motorsport activity. The Sheppey Crossing is visible from the eastern part of the area. Overall the area is in moderate condition. There are localised areas in poorer condition, notably the activities at Marshside, whilst, in places, unsympathetic materials are used to fence in livestock or surround residential dwellings. Sheets of corrugated iron, used to supplement post and wire fencing, locally interrupt the stunning long views of the natural landscape of the neighbouring marshes. Fly tipping on the coast road is also a distraction. The quality of the landscape immediately surrounding many of the buildings frequently been eroded. Most buildings are of a mixed quality and style, having been built in the latter half of the 20th century. Occasionally a more traditional isolated farmstead is built in local vernacular style out of locally extracted brick. Sensitivity to change is high.

Emerging local plan – Bearing Fruits 2031 (publication version December 2014)

- 4.13. Some limited weight can be given to the policies within this plan. The following policies are relevant: ST3; DM7; DM11; DM14; DM24 & DM28.

5.0 LOCAL REPRESENTATIONS

None received.

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council object to the proposal on the grounds that this is the fourth application for the replacement dwelling and garage and all have been refused. They note that the proposed dwelling would result in a greater footprint than the existing mobile home and consider that the proposed garage is large enough to convert to another dwelling.
- 6.02 Natural England have been consulted and their comments are awaited. These will be reported at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 Planning statement; Proposed plans and elevations (drawing no. MA/10/135.01 rev. D) and; Preliminary Ecological Appraisal.

8.0 APPRAISAL

Principle of Development

- 8.01 Under Policy RC4 of the adopted Local Plan 2008 the rebuilding of an existing dwelling in rural areas is allowed if the proposed new dwelling is of a similar size and proportion to the original dwelling, and is erected on, or close to, the position of the original dwelling. For dwellings in the rural area with an existing external ground floor area of 50 sq metres or more, the Council will permit only modest extensions (taking into account any previous additions), of an appropriate scale, mass and appearance to the

location. The site is currently occupied by a mobile home that has had some adaptations externally but no significant additions to the floorspace. As Members will note, the use of this mobile home is established as lawful and as such, it is appropriate to apply policy RC4 to this proposal. The principle of a replacement dwelling is therefore accepted. Given the visual harm associated with mobile homes, replacement with a modest dwelling meeting the requirements of policy RC4 can be acceptable. The key issue to consider now is whether the current proposal overcomes the previous grounds for refusal and grounds for the dismissed appeal and whether the proposal accords with policy RC4.

Impact on the Character and Appearance of the Countryside

- 8.02 The previously refused schemes showed the proposed new dwelling approximately 35 metres from the location of the existing mobile home. This would have resulted in the spread of buildings into the countryside to the detriment of its open and rural character. The current proposal has sought to address this concern by relocating the proposed dwelling to sit over a large part of the footprint of the existing mobile home. This location is closer to existing buildings on the land and would be far less conspicuous in my view. There are tall trees surrounding the application site which will help to ensure that the house and garage are concealed to a certain extent. The location of the proposed garage is in a similar location to the existing garage to be demolished. The current proposal would therefore limit the impact on the character and appearance of the countryside in this respect.
- 8.03 The applicant's agent has reduced the scale, height and has simplified the design of the proposed dwelling and garage. In so doing, he has achieved what I consider to be a modest increase in the floorspace over and above the existing mobile home. I acknowledge that the increase in floorspace would be 113% (previous scheme showed increases of 170% and 135%) but consider that the resulting accommodation would provide a modest dwelling within the countryside. I give weight to the fact that the existing mobile home is very small in size and acknowledge that a 'modest' dwelling will be likely to be somewhat larger than the existing. The previous schemes proposed dwellings that would have been significantly larger than the existing mobile home and I consider that the current proposal achieves a modest dwelling. I give weight to the fact that the existing mobile home is somewhat dilapidated and in need of replacement. I am also mindful of the example appeal decisions that the agent has provided to demonstrate that there have been similarly sized and designed replacement dwellings allowed in similar situation i.e. where a mobile home is allowed to be replaced with a bricks and mortar dwelling.
- 8.04 Members will note that the Inspector assessing the previous proposal (see **Appendix A**) was concerned about the scale and height of the roof which he concluded represented 'a rather overpowering feature, which would dominate the elevations of the proposed house.' The scheme has been amended to reduce the ridge height by 300mm at least. This has been achieved by lowering the angle of the roof as described above. I consider that this amendment provides enough of a reduction to address the Inspector's concerns. The elevations to roof ratio will now achieve a balance in my view. In addition, the Inspector was considering a scheme that would have seen the dwelling placed in a far more conspicuous location.
- 8.05 The design of the dwelling and garage would be appropriate for this rural area in my view and I am content with the finishing material proposed, subject to further detail of the bricks.

- 8.05 I have recommended the removal of permitted development rights for extensions and outbuildings in order to limit the amount of development at this site. I have also recommended a condition to prevent the roofspace of the dwelling and garage from being used for habitable accommodation. This will ensure that the dwelling remains of a modest size internally in accordance with policy RC4.
- 8.06 Taking the above into account, I consider that the proposed dwelling and garage would have no detriment to the character and appearance of the countryside.

9.0 Other Matters

- 9.01 There would be adequate parking provided for the proposed dwelling within the proposed garage. The proposed development is some distance from the closest dwelling – 1 Swaysdown Game Farm. I therefore consider that there would be no concerns in respect of residential amenities. The proposed dwelling would provide adequate internal and external space for its future residents in my view.
- 9.02 With regards to ecology, information about the potential for protected species, has been submitted in the form of a preliminary Ecological Appraisal. The submitted report shows that there is only low to negligible potential for amphibians (great crested newts) and suggests mitigation during construction. Recommendations are made about lighting in respect of bats and it is recommended that vegetation removal considers breeding birds. I therefore consider that there would be no harm to ecology and biodiversity that cannot be addressed by conditions.

10.0 CONCLUSION

- 10.01 I consider that the current proposal adequately addresses the previous reasons for refusal and the grounds for the dismissed appeal. The proposal would therefore comply with policy RC4 and would be acceptable in principle in my view. I consider that the design of the dwelling and garage would be appropriate for this rural area.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following approved drawings: MA/10/135.01 rev D.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No development shall commence until the existing garage as shown on plan no. MA/10/135.01 rev D has been demolished in its entirety.

Reason: In the interests of the character and appearance of the countryside.

4. Upon completion, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and

re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

5. The roofspace of the dwelling and garage hereby approved shall at no time be used as, or converted into, an extension to the living accommodation of this property.

Reason: In the interests of retaining a modestly sized dwelling within the countryside.

6. The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reason: In the interests of the character and appearance of the countryside.

7. Prior to the commencement of development hereby approved, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

8. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

Reason: In the interest of promoting energy efficiency and sustainable development, and in pursuance.

9. The details set out in section 4 of the submitted Preliminary Ecological Appraisal dated 21st March 2013 shall be implemented in complete accordance with the recommendations.

Reason: In the interests of protecting and promoting ecology and biodiversity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

Amendments were provided by the applicant to improve the scheme and 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.



Appeal Decision

Site visit made on 10 April 2014

by Ray Wright BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 May 2014

Appeal Ref: APP/V2255/A/13/2208837

2 Swaysdown Game Farm, School Lane, Iwade, Sittingbourne ME9 8QH

- 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 Mrs P MacKenzie against the decision of Swale Borough Council.
 - The application Ref SW/13/0403, dated 22 February 2013, was refused by notice dated 22 May 2013.
 - The development proposed is 'replacement dwelling and garage.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the appeal proposal on the character and appearance of the surrounding countryside having regard to both national and local policy guidance on the location and form of new development.

Reasons

3. The appeal site lies outside any defined built up area boundary and is, therefore, within a countryside location. The proposal is for erection of a new dwelling, with an existing mobile home being replaced by a garage/ storage building.
 4. The National Planning Policy Framework (Framework) indicates that there should be a presumption in favour of sustainable development, but confirms good design is a key aspect of sustainable development. It further identifies that isolated new homes in the countryside should be avoided unless there are special circumstances. However, there appears to be no dispute between the parties that the existing dwelling on the site and its garden curtilage are 'lawful.' Therefore the appeal scheme, rather than a new home, represents a replacement dwelling. Consequently, it does not have to meet the specific requirements set out in paragraph 55 of the Framework or to have a supporting business case, as indicated as required, by the Council.
 5. Policy E6 of the Swale Borough Local Plan 2008 (LP) confirms that, in countryside areas, permission will only be granted where the proposal is for an acceptable rebuilding of a dwelling currently in residential use, with more detailed guidance given in Policy RC4.
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APPENDIX A

Appeal Decision APP/V2255/A/13/2208837

6. The existing mobile home is positioned near to a complex of other buildings but has an open aspect to the east. Due to its size and form, however, it remains a relatively inconspicuous development within the landscape.
7. The proposed siting of the appeal development would remain within the garden curtilage but would be around 20 metres to the north of the existing unit and would be in a more open area of the site. Although the accommodation within the proposed new dwelling would be provided solely at ground floor level, there would be a considerable increase in its floor area compared to that existing. The Council indicate, and it does not appear to be disputed, that this increase would be around 174%. This considerably exceeds the allowance of 60% generally allowed for extensions in rural areas set out in the Council's guidance 'Designing an Extension' (SPG). The appeal scheme does not, therefore, readily comply with Policy RC4 of the LP which confirms that a replacement dwelling should be of similar size and proportion to that which it replaces and located close to the original dwelling.
8. The appellant has put forward that a landscaping scheme could be incorporated into the development. Such a scheme could reduce the visual impact of the development, particularly at ground floor level. However, the proposed dwelling would have a high roof line rising to around six metres at its ridge. It would also have a first floor gable feature facing open fields to the west of the dwelling. These elements are unlikely to be screened by any such landscaping.
9. In particular the roof form proposed would represent a rather overpowering feature which would dominate the elevations of the proposed house and, to my mind, the consequent scale and form would not satisfactorily be integrated within this countryside setting.
10. Due to its height and overall design, I consider the house would create a prominent form of development unsuitable in this sensitive location, and in this respect it would be contrary to Policy E6 of the LP which expects the quality and character of such countryside areas to be protected and where possible enhanced.
11. The Council do not object to the replacement of the original mobile home by the proposed garage/storage building and I have no reason to disagree with this assessment.
12. I conclude the proposed dwelling would have an adverse effect on the character and appearance of the area and harm the current open character of this countryside site. As such the proposal is contrary to the Framework and Policies E6 and RC4 of the LP.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

Ray Wright

INSPECTOR

