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## Appeal Decision

Site visit made on 18 November 2020

**by Terrence Kemmann-Lane JP DipTP FRTPI MCMi**

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

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**Appeal Ref: APP/V2255/W/20/3250073**

**6 Ellens Place, Boyces Hill, Newington, Sittingbourne, ME9 7JG**

- 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 Miller against the decision of Swale Borough Council.
  - The application Ref 19/503203/FUL, dated 20 June 2019, was refused by notice dated 18 November 2019.
  - The development proposed is the erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. There are 2 main issues in this case; i) the effect of the development, outside of the defined built-up area, on the character, appearance, and intrinsic amenity value of the countryside; and ii) the effect on the special architectural or historic interest of the Grade II listed 5 and 6 Ellens Place and the character or appearance of the countryside setting.

### Reasons

The site and surroundings

3. The site is located on the southern side of High Street (otherwise known in this locality as Boyces Hill), situated approximately 150m from the built-up area boundary of the village of Newington. Between the edge of the built-up area and the appeal site, the character is mainly that of the countryside. On the south side of High Street, coming out of the village, there is a car dealership and service facility that is hidden behind roadside trees and bushes, then a bungalow, at which point there are views of the open countryside. Immediately between this bungalow and the appeal site is a new development of some 9, mainly detached houses, formed around a cul-de-sac that runs at right angles to the main road.
4. The appeal site itself is mainly open, much of it grassed, providing clear views of the countryside. Then comes the listed building consisting of Nos. 5 and 6 Ellens Place, beyond which is a terrace of 5 houses, probably dating from the early part of C20. Following this terrace is countryside with much roadside vegetation. The frontage on the north side of the road is countryside mainly hidden behind dense roadside trees, although there is a prominent gated entrance signed as Ellens Field, opposite the new development of 9 houses.

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5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that *"it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street"*.
6. The current appeal site comprises three sections: an area of hardstanding fronting the road and providing vehicle access and parking for 6 Ellens Place and a small range of dog kennels. The dog kennels are located centrally on the western side boundary. The rear part widens as an area of green space, over which there are extensive views of open countryside.

The character, appearance, and intrinsic amenity value of the countryside

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case:  
*"5. 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 DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.
8. These policies clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the Nation Planning Policies Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in relation to this case: *"170. Planning policies and decisions should contribute to and enhance the natural and local environment by:  
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;"*
9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, *"In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ..."*; and, *"To promote sustainable development in rural areas, housing should be*

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*located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services".* As far as the appeal proposal is concerned, whilst it may be in a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified. Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

10. For the appellant it is argued that support for the proposed development can be found in local plan Policy SP3, where there is an exception for infill development, and the reasoned justification that includes *"Some minor developments may be thought to be essential for social, economic or environmental health of the community, but are not necessary to meet the Local Plan housing target"*. Whilst the proposed dwelling can reasonably be regarded as minor development, in the context of this policy, I do not find this argument convincing. The scale of any social and economic community benefit that could be claimed here, certainly does not outweigh the strong local plan policy ST3 objection, and the support for this that the Framework provides.
11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector's decision that led to the Eden Meadow development), a shortfall of just 0.4 years. I regard the addition of 1 dwelling, against this minimal shortfall in the policy context that I have set out, as insufficient to be persuasive in favour of the proposal.
12. I conclude on this issue that there is a strong policy objection to the proposed development that is not outweighed by other matters.

The special architectural or historic interest of the Grade II listed building and the character or appearance of its countryside setting

13. The appeal site is part of the demise of one half of a listed building at No 6. The entire building currently forms two timber framed dwellings at Nos. 5 and 6 known collectively as 'Ellens Place', listed as Grade II. The listing details describe the pair as *"House now pair. C16. Timber framed and clad with painted brick on ground floor and weather board on first floor with plain tiled roof. Right return front: 2 storeys on plinth with hipped roof and stacks to left and right. Three wood casement windows on first floor, 2 on ground floor and board door centre right with flat hood"*.
14. The relevant local plan policy reads as follows:  
*Policy DM32 Development involving listed buildings*  
*Development proposals, including any change of use, affecting a listed building, and/or its setting, will be permitted provided that:*
  1. *The building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved, paying special attention to the:*
    - a. *design, including scale, materials, situation and detailing;*

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*b. appropriateness of the proposed use of the building; and c. (not relevant here).*

15. This local plan policy needs to be considered in the context of the policies of the Framework. Within Chapter 16: 'Conserving and enhancing the Historic Environment', paragraph 189 stipulates:  
*"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary".* These requirements have not been met, although I have the comments of the council's conservation and design manager.
16. In this instance, it is necessary to begin with the combined listed building that is now numbered 5 and 6 Ellens Place. Since it originated in C16, and bearing in mind that it is a substantial building, it probably existed largely in a countryside setting. Although it now has a neighbouring terrace to the east, this has a degree of separation, but more importantly it is in a similar idiom, being of 2 storeys with a vertical emphasis and a rural feel to it (albeit that modern alterations have not been helpful in this respect). Since the setting of 5/6 Ellens Place is to an extent compromised to the east, the open character of its setting to the west is all the more important. This importance is emphasised by the very recent development of Eden Meadow, the conception of which, and the original justification, seemingly paid no attention to the listed building and its setting.
17. As a result, I regard the relatively open nature of the appeal site, even with its (relatively low key) kennels, as being an important part of the listed building's setting. To place a bungalow, even if designed to be somewhat sympathetic as later design possibilities suggest, would still be harmful to the setting of the listed building. This is mainly because of the fact that it would reduce the openness of the space to the west, introducing a bungalow and 2 garages buildings, plus the paraphernalia that goes with a dwelling. I take account of the fact that the bungalow is proposed to be set back well behind Nos. 5 and 6, but that does not mean that it would not effectively put a barrier between the frontage, and the public space in which the listed building is seen, and the countryside that is currently very apparent in this important gap. I therefore judge that the appeal proposal would amount to less than substantial harm to the significance of the heritage asset that is the listed building and its setting.
18. Paragraph 196 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, that harm should be weighed against the proposal's public benefits. In this instance this requires a balancing exercise of harm to the Grade II Listed Building and its setting compared to the provision of 1 dwelling. As I have already stated in paragraph 11 above, I consider that one dwelling would make a very limited contribution to the Council's 5-year housing supply. Whilst even a single dwelling has a part to play in social and economic terms, the benefit of 1 dwelling is not significant enough to outweigh the less than substantial harm to the heritage asset that is the Grade II Listed Building, where I consider that the proposal would adversely impact upon its setting.

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**Other matters**

19. Natural England raises the point that this proposal would result in a net increase in residential accommodation, and that impacts to the Special Protection Area and Ramsar Site may result from increased recreational disturbance. The planning officer's report notes that, due to the scale of the development, there is no scope to provide on-site mitigation and therefore off-site mitigation is required by means of developer contributions at the rate of £245.56 per dwelling. It may well be that the appellant would be willing to make such payment, but this does not appear to have been secured by a legal agreement. Therefore, this matter would stand against the grant of planning permission. However, in view of the conclusion that I reach below, it is not necessary for me to consider the matter further.

**Conclusions**

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside. In addition, the proposal would cause less than substantial harm to a heritage asset, in the form of the Grade II listed building now numbered 5 and 6 Ellens Place, by the adverse effect on its special architectural or historic interest and the character or appearance of its countryside setting. These 2 issues amount to strong policy objections to the appeal proposal that are not outweighed by any material consideration. I will therefore dismiss the appeal.

*Terrence Kemmann-Lane*

INSPECTOR