



Appeal Decision

Site visit made on 20 December 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/V2255/W/21/3279546

Land rear of Nos 91 and 93 Chaffes Lane, Upchurch, Sittingbourne, Kent, ME9 7BQ

- 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 and Mrs David and Andrea Seal against the decision of Swale Borough Council.
 - The application Ref 20/505298/FULL, dated 9 November 2020, was refused by notice dated 6 January 2021.
 - The development proposed is demolition of existing garage and erection of a three/four-bedroom dwelling with associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

3. The main issues in this case are: -
 - a. Whether the site is suitable for the proposed development, having regard to the spatial strategy of the development plan, the effect of the proposed development on the character and appearance of the countryside and access to services and facilities; and
 - b. The effect of the proposed development upon the character and appearance of Upchurch.

Reasons

Location

4. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "At locations in the countryside, outside the built-up area boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/21/3279546

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”.

5. The site would utilise part of the rear garden of No 91 Chaffes Lane and extend beyond into open countryside land that I saw was used as a horse paddock. Despite involving part of an existing developed rear garden that is domestic in character, its location would be outside any established built-up area boundary. Therefore, the appeal site would not be an appropriate location for residential development.
6. Developing the site with a two-storey dwelling with its domestic curtilage and landscaping, including a landscape buffer, would create a development of urbanised appearance and this would substantially alter the character and appearance of this location. This would harmfully diminish the intrinsic value, landscape setting, tranquillity and beauty of the countryside. Whilst this would represent only a small incursion into the countryside, this does not justify the harm arising from the proposed development.
7. The appellant has referred me to Policy DM13 of the Local Plan that relates to extending the garden of a dwelling in the rural area. This proposal relates to an extension of built development and associated garden into the rural area and, therefore, Policy DM13 is not applicable to this proposal.
8. The appeal site is located at the edge of Upchurch. Upchurch is a Tier 5 village given it has limited services. The appellant has provided a list of local services and facilities and a map illustrating their locations. Within a range of 770m and 980m from the site there are two convenience stores (one with post office), a primary school, public house, day nursery, fish bar, church and village hall. There is a doctor's surgery, pharmacy, and children's play area/sports pitch in closer proximity to the site.
9. Manual for Streets indicates that walkable neighbourhoods are typically characterised by a range of facilities within 800m walking distance, which can be comfortably accessed on foot. Many of the facilities in the village would be within a walkable distance. It would also be possible to cycle to the village centre and to Lower Halstow approximately 1.2km and Rainham around 1.1km from the site. The nearest bus stop is located at the junction of Oak Lane and Bishops Lane, around 450m from the appeal site, with other bus stops within the village centre that would provide access to Chatham, Gillingham, Rainham and Sittingbourne. The train station at Rainham is around 2.2km away that provides services to London. It is advised that a new secondary school is being constructed around 1.7km away.
10. I acknowledge that transport solutions will vary between urban and rural areas. The future occupiers would have some travel choice that would not lead to complete dependency on private transport. Whilst some day-to-day facilities would be within walking distance, to reach a range of shopping facilities, education and employment would require travel further afield. Cycling or using buses would allow travel further away but carrying shopping or inclement weather would likely discourage the uptake of these modes of transport. Consequently, given the distance to services and facilities I find that future occupiers would be highly reliant upon private vehicle travel, the least sustainable mode of transport, to access services and facilities to cater for their day-to-day lives.

Appeal Decision APP/V2255/W/21/3279546

11. For these reasons, the site's location is unsuitable for the proposed development, having regard to the spatial strategy of the development plan, and would have a harmful effect on the character and appearance of the countryside. Furthermore, future occupants would not have reasonable access to services and facilities. The proposal would, therefore, conflict with Policies ST1, ST3 and CP2 of the Local Plan that seek, amongst other matters, development to provide new homes in accordance with the settlement hierarchy for the Borough to protect the tranquillity and the beauty of the countryside and to minimise the need to travel and promote use of sustainable transport.

Character and appearance

12. The properties in the area are characterised by road frontage development. The proposal to erect a dwelling to the rear of 91 and 93 Chaffes Lane behind existing road frontage dwellings would not be in keeping with the prevailing pattern of residential development in the area. Therefore, the proposal would be visually out of keeping. This would be so despite the dwelling being designed to reflect the appearance of existing development in the area.
13. Being two-storey the dwelling would be visible in views from Chaffes Lane and the public footpath south of the appeal site, although I accept that in some wider views the dwelling would be seen against the backdrop of existing dwellings within the village. The harm arising from the development would be visible from the public highway and footpath, as well as to neighbouring occupiers close by in their outlook. Existing vegetation in the area and setting the dwelling in from the track would not sufficiently mitigate public views of the development. A landscape buffer and new planting within the site would not obviate the visual harm arising from a two-storey development.
14. I have been directed to a property at the rear of No 97 Chaffes Lane that fronts Oast Lane said to be similar to that of the proposal. However, there appear to be a complex of buildings in that locality, which is a different situation to that of the appeal site that is before me. I, therefore, do not consider the circumstances relating to that dwelling are comparable to this case.
15. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of Upchurch. The proposal would, therefore, conflict with Policy DM14 of the Local Plan, which seeks, amongst other matters development to be both well sited and of a scale, design, appearance, and detail that is sympathetic and appropriate to the location.

Other Matters

16. The Council has identified that the development would result in a net increase in residential accommodation at the site that may result in increased recreational disturbance to the Swale Special Protection Area. Given that I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail.
17. I note that Mr Seal's mother suffers from several health conditions and the new dwelling would offer suitable ground floor en-suite accommodation for her. This would be a benefit of the development and would enable Mr Seal and his wife to care for her on a day-to-day basis. However, the harm that I have

Appeal Decision APP/V2255/W/21/3279546

identified would be permanent and is not outweighed by the appellant's particular circumstances.

18. The parties have made reference to an appealed development at Jubilee Fields, Upchurch. In relation to that appealed decision the appellant has made reference to a 2017 planning permission granted (16/506986) for demolition of existing dwelling and construction of two dwellings at the junction of Oak Lane and Wallbridge Lane. I have not been provided with the details of either of those cases that might enable me to determine any similarity, if any, of those developments to the proposal that is before me.

Planning balance

19. The Council advises that recent monitoring figures indicate that the Council can demonstrate a five-year supply of housing sites. That said, I have been referred to a proposal for the erection of a dwelling at Bredgar that the appellant advises to have been considered by the Council at around the same time as this case. In that case the Council identified a shortfall of 4.6 years.
20. Having regard to the Council's Statement of Housing Land Supply (February 2019) the appellant contends that the Council has a supply of 4.6 years of deliverable housing sites and the shortfall could potentially be greater than this. If there is not a five-year supply of deliverable sites in place, the provisions of paragraph 11d)ii of the Framework should be applied.
21. The adverse impacts arising from the proposal relate to the unsatisfactory location of the development, that includes the need for private travel, and its harmful effect on character and appearance of the countryside and Upchurch. It would also conflict with relevant development plan policies. The proposal would dilute the overall strategy for the pattern of development which is also contrary to the expectations of the Framework.
22. On the other hand, the Government's objective is to significantly boost the supply of homes and recognises that windfall and cumulative impact of developing small sites can help meet supply. However, one dwelling would make little difference to the overall supply of housing and the support one extra household would provide to the social and local economy would also be minimal. The harm that I have identified relating to the unsatisfactory location of the development and its harmful effect on character and appearance of the area is not outweighed by the contribution to housing land supply or those limited social and economic benefits associated with the proposal.
23. Consequently, the adverse impacts of the site's location and on character and appearance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provision of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Nicola Davies INSPECTOR