



Appeal Decision

Site visit made on 8 November 2023

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/V2255/W/22/3312785

The Mounted Rifleman, Luddenham, Faversham ME13 0TL

- 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 M S Mcstay against the decision of Swale Borough Council.
 - The application Ref 22/502168/FULL, dated 28 April 2022, was refused by notice dated 24 June 2022.
 - The development proposed is described as the enclosed is a full planning application for the residential redevelopment of the existing piggeries to create a new three bedroom eco home.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, employment opportunities and facilities;
 - The effect of the proposal on the character and appearance of the local area with particular regard to the local landscape and the countryside as a whole;
 - The effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, The Mounted Rifleman.

Reasons

Suitable location

3. The appeal site lies within a small cluster of houses in a rural area accessed via quiet, single track roads. It is a parcel of land containing a small orchard and piggeries located beyond the rear garden boundary of a Grade II listed dwelling known as The Mounted Rifleman. Vehicular access to the site is from a gravelled driveway running along the rear garden of the Mounted Rifleman. The proposal relates to the demolition of existing piggeries to be replaced by a new single storey dwelling. At the time of my site visit the piggeries were being used for ancillary residential storage.

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4. Immediately to the west is a former outbuilding, also within the appellant's ownership, which I understand, is now in use as a holiday let. To the south of the appeal site, are a pair of semi-detached cottages known as 1 and 2 Elverton Cottages, and to the north is another residential property, Elverton Bungalow. To the east is open countryside and agricultural fields which contribute to the site's rural setting.
5. As the appeal site is set within a small cluster of buildings in residential use, it does not appear isolated within its immediate environment. Nor is it isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, it is in a rural setting, some distance from the nearest settlement.
6. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (LP) sets out the strategic approach to the location of development. It identifies that, through the use of previously developed land within defined built up area boundaries, development proposals will be permitted in accordance with the following settlement strategy: the urban areas of Sittingbourne, Faversham and Sheerness are the principal focus for development together with development at rural local service centres and other villages with built-up area boundaries shown on the Council's Proposals Map.
7. The main parties agree that the proposal would be located outside any defined development boundary and, consequently, would be within an area of open countryside. The appellant describes the appeal site as previously developed land, comprising an existing building which is within the residential land ownership of the Mounted Rifleman and has been in ancillary residential use since 1992. Nevertheless, even if I were to agree that the site constitutes previously developed land, this would not negate the need for the development to meet the locational criteria outlined in Policy ST3.
8. In relation to sites within the open countryside, Policy ST3 states that 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.
9. I note the appellant's reference to paragraph 80 of the Framework, which identifies specific instances whereby the development of isolated homes in the countryside may be appropriate. However, as outlined above, I do not find that the appeal site is isolated in the context of paragraph 80. The provisions of paragraph 80 do not therefore weigh in favour of the proposal. Notwithstanding this, as the proposal involves the demolition of the piggeries it would not involve the re-use of redundant or disused buildings, as required by paragraph 80 (c) of the Framework, nor does it adhere to any of the other circumstances outlined under paragraph 80.
10. However, the appeal site's lack of isolation with regard to paragraph 80 does not mean that the site would be reasonably accessible to services when considered in the context of other requirements of the Framework, nor would it promote the sustainable development in rural areas sought by paragraph 79. The Framework, although encouraging the use of brownfield land at paragraph 120 (c) is clear that this should be within settlements rather than in open countryside.

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11. To access services and facilities within Teynham which is identified as a "Rural Local Service Centre", the occupants of the proposed dwelling would have to walk or cycle along the remote, narrow rural lanes, which are unlit and would be a less attractive route outside daylight hours. Furthermore, there are no dedicated cycle lanes or footpaths for the majority of the route. Therefore, the route is unlikely to be an attractive option for walking and cycling outside of daylight hours or during inclement weather. The nearest train station is located several miles from the appeal site which is likely to make this mode of transport an unappealing choice without the use of a car.
12. For the reasons given, essential services, facilities and employment opportunities would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the lack of safe pedestrian and cycle routes and having limited options for alternative modes of transport.
13. As such, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the Local Plan for the proposal, having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. The proposal fails to accord with Policies ST1, ST3, CP3 and DM14 of the LP. Amongst other things, these policies set out the Swale settlement strategy, seek to limit development in the open countryside and minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also fail to accord with the sustainability objectives of the Framework.
14. I have had regard to Policy DM3 of the LP which seeks to protect opportunities for rural employment from loss to residential use. The piggeries are not in agricultural use, and from the evidence before me have not been for a significant period of time. On this basis, the policy has not been determinative in my reasoning on the issue.

Character and appearance

15. The narrow winding lanes often enclosed by hedgerows, and the undulating landscape of agricultural fields, marked by limited built development provides the appeal site with a tranquil landscape character.
16. The dense boundary vegetation and adjoining holiday let would largely screen views of the proposal from Elverton Lane. However, the east of the site is open and visible in views from the open countryside, and the proposal would be visible from distant vantage points. The piggeries do not intrude excessively on the setting because they have a simple agricultural character which blends into the surroundings.
17. I accept that the design of the proposal would only result in relatively small increases in ridge and eaves heights when compared to the existing piggeries and the materials proposed for the dwelling, when viewed in isolation, are considered acceptable.
18. However, the infilling of the existing courtyard area would create a building with a significantly larger floor area than the piggeries. The larger floor area and introduction of a roof form punctuated with roof lights, and an elevation with a large area of glazing would be in contrast to the piggeries existing simple agricultural form.

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19. Furthermore, the residential use is likely to involve the introduction of additional domestic paraphernalia and an enlarged car parking area associated with the independent residential property.
20. Despite the proposed replacement tree planting, which the appellant indicates could be secured by planning condition, the additional built form and associated domestic paraphernalia would have an urbanising impact on the appeal site and wider local landscape. The Swale Landscape Character and Biodiversity Appraisal SPD (2011) describes the character of the Teynham Fruit Belt as an undulating landscape composed of small hills and valleys, with orchards and some hop fields. The overall condition of the landscape is rated moderate, and landscape sensitivity is also rated as moderate. Regardless of whether the site is located within the Teynham Fruit Belt or within its setting, I find that the proposal's urbanising effect would have a harmful impact on the local landscape.
21. In addition, the dwellings on this part of Elverton Lane front, or are clearly visible from, the road. In contrast, the proposal would be located to the rear of the neighbouring properties and away from the road. The introduction of a new dwelling in this position would be an uncharacteristic feature within this part of Elverton Lane.
22. For the above collective reasons, I conclude that the proposal, due to its urbanising effect, would be harmful to the character of the local landscape and detrimental to the countryside as a whole. I therefore find that it conflicts with Policies DM14 and DM24 of the LP which, amongst other things, expect development to conserve and enhance the natural environment in non-designated landscapes and for development to be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.

Listed building

23. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me, in determining this appeal, to have special regard to the desirability of preserving the listed building, or its setting, or any features of special architectural or historic interest which it possesses.
24. The List description confirms that the Grade II listed Mounted Rifleman (the LB), was listed in 1986 and dates from the eighteenth century. It is two storeys in height, with an attic. Amongst other things it is described as being constructed in red and blue chequered brick with a plain tiled roof, and two hipped dormers.
25. The significance of the LB is derived mostly from its age, architectural quality, its setting within a spacious, verdant garden and its contribution to the rural character of the area as a traditionally constructed former public house.
26. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification.

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27. The proposal would replace an existing utilitarian agricultural building that is of limited quality. The development would reflect the form and scale of the building that existed previously, albeit larger and with a modern interpretation and additional glazing. Although including rooflights, the proposed building would be single storey. It would remain clearly subservient in scale to the LB.
28. The LB's spacious and verdant garden contributes positively to its rural setting and thus special interest and significance. The piggeries are located beyond the garden, a considerable distance from the LB to the rear of the site. It is separated from the LB by tall, dense planting surrounding the garden, and additional outbuildings in between the LB and the piggeries, and as such there is very limited intervisibility. Due to the extent of vegetation and screening, the proposal would be evident only from very limited views from the rear of the LB's garden but not from Elverton Lane or from the LB's driveway, from which the significance of the LB is most evident. As a result, the design and mass of the proposal would not appear out of place. Consequently, the proposal would have a neutral effect on the setting of the LB.
29. Given the above I conclude that, on balance, the proposal would preserve the special interest and setting of the Grade II LB. This would satisfy the requirements of the Act and paragraph 197 of the Framework. Consequently, the proposal would comply with policies CP8, DM14, and DM32 of the LP. These seek, amongst other things, for development to conserve and enhance heritage assets.

Other matters

30. The appeal site lies less than 6km from the Swale Special Protection Area (SPA), which is designated at international level because of its special ecological importance for rare and vulnerable bird species. Within this distance around the SPA, the Council is concerned, on the advice of Natural England, that any new residential development is likely to add to the existing pressures and disturbance experienced by the SPA, in terms of recreational use, dog walking and predation by domestic pets. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
31. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation. However, even though the appellant has indicated a willingness to enter into an agreement to address any mitigation required to address concerns related to the SPA I have no such agreement before me. In any event, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.
32. The Framework seeks to significantly boost housing supply. It also encourages the optimal use of underutilised land, and states that, where there is shortage of land for meeting identified housing needs, planning decisions should avoid homes being built at low densities. However, any weight attributed to these factors is tempered by the Framework's expectation that developments prioritise pedestrian and cycle movements. The Framework also gives

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substantial weight to the value of using suitable brownfield land within settlements for housing, rather than land in the countryside as is the case with this proposal.

33. I recognise that the proposal would incorporate low-carbon technologies, be energy efficient and would provide additional energy through a proposed 10Kw solar array. The proposal would also provide three new electrical vehicle charging points, cycle storage and landscaping to offset trees lost as a result of the proposal. These matters weigh in favour of the proposal.
34. The proposed dwelling would also have good internal space, with a functional layout and future occupiers would have a generously sized external amenity area. The proposal would be constructed to Kent Police Secure by Design Standards. I acknowledge that the proposal may be compliant with various other provisions of the development plan, and, for instance, would provide a policy compliant quantum of off-street car parking, sufficient off-road turning space and surface water drainage via soakaways. I am satisfied that no harm would arise to archaeological interests subject to the condition recommended by the Kent County Council advisor. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.

Planning Balance and Conclusion

35. The appellant and the Council are in agreement that the Council cannot demonstrate a 5-year housing land supply. The appellant indicates that the Council has a 4.6-year supply of housing land, whilst the Council's Statement of Housing Land Supply 2022/23 (March 2023) indicates a housing land supply of 4.83 years.
36. However, even if I were to conclude that there is a shortfall in the five year housing land supply on the scale suggested by the appellant, as the proposal relates to development less than 6km from a designated habitats site, the application of policies in the Framework that protect areas or assets of particular importance, as given in footnote 7 of paragraph 11(d)(i), provide a clear reason for refusing the development proposed.
37. Alongside my findings in respect of the character and appearance, I have found that this site is not a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities.
38. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR