



Appeal Decision

Site visit made on 18 October 2017

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

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

Decision date: 14th November 2017.

Appeal Ref: APP/V2255/W/17/3178562

Land adjoining Sydney Cottage, Dunkirk Road South, Dunkirk ME13 9PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Jenkins against the decision of Swale Borough Council.
 - The application Ref 17/500755/OUT, dated 10 March 2017, was refused by notice dated 5 May 2017.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application has been made in outline, with all matters reserved, and I have determined it on that basis.
3. The Council has confirmed that the emerging local plan was found sound by the Inspector and adopted by the Council on 26 July 2017. I am required to determine the appeal on the basis of the development plan and national policy in place at the time of my decision, and accordingly I have done so.

Main Issue

4. The main issue in this case is whether the site is a suitable location for housing, having regard to local and national planning policy, and to the effect of the development on the character and appearance of the countryside.

Reasons

5. The appeal site is an area of pasture, part of a larger field contained by rising ground fringed by trees to the north, south and east, and the road to the west. The site contains a purpose built stable block, currently in use for domestic storage. It is in an area along Dunkirk Road South, a rural lane, characterised by scattered houses in very large plots, with the exception of the small, densely developed group, Iron Hill Cottages. The site is within the Blean Woods Special Landscape Area, one of ancient woodland.
 6. While the application is in outline, the indicative drawings show a two storey dwelling, with two single storey side wings to provide a garage and additional residential accommodation. It is likely that the development would be in a form similar to this. There would also be an associated vehicular access and driveway into the site.
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7. A new local plan, Bearing Fruits 2013: the Swale Borough Local Plan 2017 (the LP) was adopted by the Council in July 2017. Policy ST3 sets out the Swale settlement strategy, which identifies previously developed land within defined built up area boundaries and sites allocated by the Local Plan as the principal foci for development. It seeks to restrict development in the open countryside except where it would be supported by national planning policy, and where it would be able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
8. The site is in an area outside any defined settlement boundary and therefore in the countryside, and is not one allocated for housing. The closest settlement is Boughton under Blean, which is defined as a rural local service centre within the LP, as it offers a range of services and facilities, including good transport links. However, the appellant has confirmed that the site is around 1.5 km from the village centre, and further still from services in the wider area such as the railway station at Selling. As these would be accessed mainly along narrow and unlit rural roads, these distances would further than would be reasonably attractive or convenient for walking. Future occupiers of the dwelling would therefore be likely to access many of the day to day facilities by private car journey. I conclude, as a result, that, despite the presence of other dwellings in the vicinity of the site, it would be functionally isolated.
9. Other planning decisions have been put in front of me, including an appeal decision¹, in which the issue of reasonable proximity to facilities were considered. However, each case should be determined on its merits, and the local circumstances in this case seem to me to be very likely to deter walking to the village to meet the daily needs of future occupiers of the development.
10. The appellant has also put before me a previous appeal decision relating to the building of a new dwelling in the garden of The Firs, opposite the current appeal site². I have taken account of the findings of the Inspector in that case, and, although she noted that there are other properties along the road, she did not reach a definitive conclusion on whether or not that site was isolated for the purposes of planning. This does not therefore cause me to alter my conclusion on this point.
11. The site is currently within a larger open field, with visual and landscape quality derived from its openness, the presence of mature trees at its margins, and its setting along the rural lane. Although the illustrative information shows that the design of the dwelling would be a considered one, reflecting local vernacular traditions, it would nonetheless involve the insertion of built development into this rural setting, where there previously had been none.
12. While the appeal dwelling would retain an open setting around it, and while many other dwellings in the area benefit from large plots, it would nonetheless be an intrusion into the open pattern of development in the vicinity, and would begin to erode the spacious character along Dunkirk Road South. It would as a result be harmful to its rural setting, including that of the Blean Woods Special Landscape Area.

¹ Planning Application SW/14/0541 and Appeal Ref: L2630/A/13/2205855

² Ref APP/V2255/W/15/3004335

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13. The development would therefore not be a suitable location for housing in terms of the adopted settlement strategy, and would fail to protect the character of the countryside. It would as a result conflict with policy ST3 of the LP. It would also conflict with policy DM14 of the LP which seeks development which conserves the natural and built environments, with policy DM24 of the LP, which seeks to protect the value and character of the Borough's landscapes, and with policy DM26 of the LP which seeks to avoid development which would significantly harm the character of rural lanes.

Planning Balance

14. The submitted evidence shows that there was a lack of a five year deliverable housing land supply at the time the Council determined the application. However, the local plan has recently been through an Examination in public. The Inspector, in her report of June 2017, concluded that she was content that it provided for a 5.4 year housing land supply, and that it identified sufficient deliverable sites to meet the full Objectively Assessed Need.
15. The appellant has challenged this assessment, on the basis of concerns raised during the examination process and the Inspector's conclusion that the adopted plan should contain a commitment to an early review. He also points out that the most up to date evidence on which the Inspector's conclusions were based was the Strategic Housing Land Assessment 2016 (the SHLS), and that as the 5 year housing supply position is not static, the position may have changed. The appellant has also questioned the trajectory for delivery of dwellings. On the basis of these factors, it is suggested, the 5.4 year supply might be considered marginal, and not robust.
16. Planning Practice Guidance states that the examination of Local Plans "is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position"³. This is a consideration of some weight.
17. Although the appellant queries the Council's calculation of the five year housing land supply and the addition of a 5% buffer, it remains the case that the Inspector, presented with detailed evidence, accepted this approach. Before me is the Council's "Call for Sites", started in August 2017 as part of the review process to identify additional land for housing, responding to the Examination Inspector's call for an early review and intended to identify additional sites for housing. There is nothing before me therefore to suggest that there would a shortfall in supply.
18. In relation to deliverability, the appellant has supplied evidence relating to two allocated sites. As, however, the delivery period for one of those is for years 4 and 5, and for the other, year 2, and as the appellant's concerns relate largely to the future discharge of reserved matters and conditions, I conclude that while this suggests the possibility of future shortfalls in delivery, it does not convincingly demonstrate that there has been under-delivery in year 1 or that the current deliverable housing land supply is not robust. Other allocated sites are also discussed, and shortfalls suggested, but this evidence is speculative,

³ Ref ID 3-033-20150327

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and again does not demonstrate conclusively that the deliverable supply is currently out of date.

19. Therefore, although the Council has not yet published the annual assessment of housing sites, in the absence of clear substantive evidence that circumstances have materially changed since the Examination, and as the identified figure for housing land supply is in excess of 5 years, the balance of probability is that at this early point in the life of the new Local Plan there remains at least a 5 year deliverable supply.
20. An appeal decision⁴ has also been put before me relating to a different local authority area and where a similar 5 year housing land supply position was considered. The Inspector in this case concluded that the evidence before him was not fully conclusive, but that if the 5 year supply was at best marginal, granting permission for the development, which was for 85 dwellings, would provide an element of extra flexibility and help to compensate for any further slippage in any of the other planned sites. The provision of a single additional dwelling in the current appeal would, however, make only a very minor contribution in helping to compensate for slippage on any of the planned sites, and it has not been clearly demonstrated that the housing land supply figure is marginal. The circumstances are not therefore directly comparable, and this does not therefore cause me to alter my conclusions on this case.
21. I have therefore determined the appeal on the basis that the Council is able to demonstrate a five year supply of deliverable housing land supply in accord with paragraph 47 of the Framework. The policies in the local plan can therefore be regarded as up-to-date, and I afford them full weight. Paragraph 14 of the Framework, which would require the application of the "tilted balance" is not therefore not engaged.
22. In considering the unweighted balancing exercise, the proposal would provide a single new dwelling, but this would be a limited benefit. The decision in relation to the site adjoining The Firs, where greater weight was given to the supply of additional housing, was made a time when it was agreed by the parties that 5 year housing land supply could not be demonstrated. A number of other appeals have been put before me where, similarly, a decision was reached before the 5.4 year housing land supply was pronounced sound by the Local Plan Inspector⁵. The circumstances of these cases are therefore no longer comparable in this respect.
23. The creation of a single dwelling would not provide more than a very limited contribution to the vitality of the rural community or more than limited economic benefits during construction. As I have found harm to the countryside, I cannot agree with the appellant's contention that there would be any environmental benefits, while I can accord only neutral weight to potential benefits to biodiversity or in terms of energy or water efficiency.
24. The development in this case would conflict with the Council's up-to-date, planned approach to achieving sustainable patterns of growth, which is advocated by the Framework and to which I attach significant weight. The development would not, as a result, represent sustainable development.

⁴ Ref: APP/J2210/W/16/3156397

⁵ Ref: APP/V2255/W/16/3146393; Ref: APP/V2255/W/15/3067553; Ref: APP/V2255/W/163148140; & Ref: APP/V2255/W/16/3162806.

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Conclusion

25. The harm I have identified through conflict with the development plan, taken with the harm I have identified to the countryside, including to the rural lane and the Special Landscape Area, would not therefore be outweighed by any benefits, and there are therefore no material considerations which indicate that planning permission should be granted notwithstanding this conflict. On this basis I conclude that the appeal should be dismissed.

S J Buckingham

INSPECTOR