



The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2018

Appeal Ref: APP/V2255/W/17/3188008

Gate House, Uplees Road, Oare, Kent ME13 0QT

- 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 Aaron Sunley against the decision of Swale Borough Council.
 - The application Ref 17/501102/FULL, dated 27 February 2017, was refused by notice dated 5 May 2017.
 - The development proposed is described as '*Conversion of existing building into a Live & Work Unit comprising two bedroom living space with artisan workshop/office.*'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Subsequent to the Council's decision, but prior to the appeal being lodged, the Council adopted its replacement Local Plan entitled 'Bearing Fruits 2031 2031: The Swale Borough Local Plan'. This supersedes the 2008 Local Plan policies that were referred to in the Council's decision. Accordingly, I have determined this appeal in accordance with the newly adopted policies and any other relevant material considerations.

Main Issues

3. The main issues in this appeal are:
 - 1) Whether the site represents an appropriate location for new housing, having had regard to the Council's settlement strategy and also the National Planning Policy Framework; and
 - 2) The proposal's effect on the character and appearance of the countryside.

Reasons

Location

4. Planning permission is sought for the conversion and significant alteration of an existing single storey, timber framed building workshop building for use as a single residential dwelling and a small attached craft workshop. It is proposed that an upper floor be created to accommodate two bedrooms and bathroom facilities, and this would necessitate the ridge height being raised by approximately 1.2m.

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5. Uplees Road, off which the building is situated, is a narrow un-made road. Nonetheless, during my site visit I noted that there were some houses in the vicinity, including 'Brambledown' which lies immediately adjacent. The appeal site, though, is in the open countryside, significantly distanced from the built-up area boundary, and falls within a Special Landscape Area.
 6. Paragraph 55 of the National Planning Policy Framework (the Framework) indicates that to promote sustainability in rural areas new housing should be located where it will enhance or maintain the vitality of rural communities. Accordingly, isolated homes in the countryside should be avoided except in circumstances where, amongst other things, it would be essential for a rural worker to live near their place of work or it would use a redundant building and lead to an enhancement to the immediate setting.
 7. The issue of vitality was addressed in the recent court judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited*. Here the judge, whilst acknowledging the essential role that housing plays in ensuring the vitality of local facilities and services, indicated that the key question was whether the housing was proximate to services and facilities so as to maintain or enhance the vitality of the rural community.
 8. The judge commented that paragraph 55 of the Framework should not be seen as a policy against development in settlements without services as a small village may enhance and maintain services in a neighbouring village, as people travel to use them. However, despite the presence of some established individual houses in the vicinity the immediate area could not be described as a small village. Although the appellant comments that the village of Oare is within reasonable walking distance the area is very limited in terms of services and facilities. Also, despite the reference to internet shopping, this would require vehicular deliveries by means of large vans.
 9. The site falls outside the identified and defined built-up area boundaries, as shown on the Council's Proposals Map. The Local Plan (LP) indicates that development proposals will be supported in accordance with the settlement criteria set out in Policy ST3 thereto. This seeks to channel new development within the built-up area boundaries and indicates that development will not be permitted in locations within the open countryside unless supported by national planning policy and able to demonstrate that it would contribute to, amongst other things, protecting the vitality of rural communities.
 10. The appellant describes the development as a live/work unit, but it is clear from the proposed design that the emphasis is heavily on the residential element. Whilst enhanced facilities for a rural commercial enterprise would be in accordance with LP Policy DM3 and also consistent with paragraph 28 of the Framework I have seen no firm details of the workshop element, the level of employment involved, or any business plan to this end. As the proposal stands the workshop section appears little more than a small extension to the main building incidental to the enjoyment of the proposed dwelling. Such an arrangement would be in conflict with the said policy. As such, apart from the building's construction works, I have seen no evidence of any long term economic benefit. Neither am I convinced that the proposal would contribute in any significant way towards the vitality of local facilities and services. Further, given the location there would be a strong reliance on the private car.

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11. Taking all such factors into account, especially the Council's settlement policy, I conclude that the site is not within a sustainable location and the development would be in material conflict with the objectives of LP Policies ST3 and DM14 and also relevant advice within paragraphs 7 and 55 of the Framework.

Character and appearance

12. The appellant considers that the proposed conversion of the building into a mixed live and work unit represents the best use of an existing building which would also blend in with the landscape of the rural settlement. In terms of the proposed works to the building and its modification, including the raising of its roof height, I am satisfied that, given its immediate surroundings, the proposal would represent an improvement in both physical and visual terms. As such, the impact on the landscape and countryside would not be deleterious. Notwithstanding the likely reliance on the private car I consider that the vehicular traffic generated by the residential element would be relatively small and, due to its limited size, it is unlikely that the workshop would add to this in any significant way.
13. I therefore conclude that the proposal would not be harmful to the character and appearance of the countryside, and there would be no material conflict with LP Policies DM24 and DM26.

Other considerations

14. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. However, relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five year supply of deliverable housing sites.
15. The Council, in both its representations and also its 'Statement of Housing Land Supply, 2016/17, partial update December 2017 (SHLS) indicates that it can currently demonstrate a five-year supply of deliverable housing sites within the Borough. Indeed, in an appeal decision letter (APP/V2255/W/17/3172378), of November 2017, the Inspector identified a housing land supply of 5.4 years. More recently, the SHLS has since revised this figure to 5.3 years, acknowledging that there have been slippages in anticipated timings across a number of strategic sites since the previous SHLS (2015/16). However, it goes on to say that these are partially compensated by a speedier delivery on one strategic site.
16. The appellant takes a contrary view and contends that, due to Highways England and Kent County Council (KCC), the local highway authority, both raising holding objections on developments which will impact on the A249/A2 Key Street junction, the Council's supply of deliverable housing land is significantly less at approximately 3.6 years. A letter has been provided by KCC confirming the holding objection. This matter was highlighted by the Local Plan Inspector at its Examination who identified, at the time, outstanding and unresolved issues in relation to the requisite highway infrastructure.
17. As an update I have also been provided with a recent letter from the Department of Transport which refers to a meeting held in January 2018, attended by Highways England, KCC representatives and the Council. Here it was agreed that mitigation is required before any development can proceed,

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and all agreed to work quickly to complete the necessary transport modelling and mitigation design, and then to construct the junction improvements.

18. The Council's most recent representations confirm that the agreement has been reached and this will enable the release of planning permissions, subject to completion of the respective S106 agreements, for several major housing sites, which the appellant has made reference to in the appeal papers.
19. In the circumstances, although the situation has caused some delay, I have seen no compelling evidence to suggest why, with the various parties working together in a common purpose, the planned housing delivery should not be achieved.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. In circumstances where an up-to-date development plan is in effect, and where a five year housing land supply can be demonstrated, as I find is the case here, full weight can be given to the Council's identified settlement boundaries with restriction outside such boundaries on new housing development.
21. The site is within 6km of the Swale Special Protection Area (SPA) and this raises concerns over possible disturbance to birds. The Local Plan comments that each application is assessed individually and may require developer contributions to mitigate impacts in accordance with Policy CP7. The appellant has indicated that he is prepared to make an appropriate financial contribution in this respect, although I have not had sight of any Unilateral Undertaking to this end. However, as I have found against the proposal on another substantive matter, I need not explore the issue of SPA mitigation further.

Conclusions

22. Whilst I have found that the proposal would not be harmful to the character and appearance of the countryside, this is outweighed by the harm that would result from the siting of a new residential dwelling in this particular location. The limited information provided in respect of the workshop element does not demonstrate any rural enterprise of significance and does not mitigate in the circumstances.
23. Even if the Council could not demonstrate a five year land supply the contribution of one additional residential unit would be very small. In the circumstances I see no reason why the proposal should not be determined in full accordance with the development plan.
24. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR