

Town & Country Planning Act 1990 (as amended)

Appeal by Mr James Ransley against the decision by Shepway District Council for the erection of a single new dwelling with associated parking.

Glebe Farm, Stone Hill, Sellindge, Ashford, Kent, TN25 6EJ

Statement of Case on behalf of Shepway District Council

Appeal Reference: APP/L2250/W/19/3236052

Local Authority Reference No: Y18/1628/FH

1.0 Introduction

- 1.1 This is an appeal against non-determination, however, had the Local Planning Authority determined the application it would have been refused for the following reasons:
 - 1.1.1 The application site is located outside of the defined settlement boundary, where the proposal would result in an unacceptable and unsustainable residential development in the countryside which would result in the erosion of the established rural character of the area. No special justification has been given as to why a rural location is essential and as such the proposal would be contrary to saved Shepway District Local Plan Review policies SD1, CO1 and HO1, Shepway Core Strategy Local Plan policies DSD, SS1, SS3 and CSD3 and paragraphs 11 and 79 of the National Planning Policy Framework, which seek to ensure new development is sustainable and is directed to the built confines of identified existing rural settlements (in accordance with the adopted settlement hierarchy).
 - 1.1.2 The proposed dwelling, by virtue of the level of excavation required, its siting, two-storey form and incongruous materials would erode the spatial qualities and rural character of the area which would cause harm to the setting of the nearby Grade II Listed Building contrary to Policy BE5 of the Local Plan Review, paragraph 193 of the National Planning Policy Framework and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which seek to preserve the conservation of designated heritage assets.
- 1.2 The application relates to a parcel of land adjoining the grounds of Glebe Farm to the north west, A Grade II Listed Building in Sellindge. The land is situated outside of any defined settlement boundary and is therefore considered to be in the countryside in planning policy terms. The site is situated to the rear of 'Old Tanyard Cottage', accessed via a shared driveway serving a number of properties to the west. There is a river situated to the south of the existing Farm House. The site is located within an area of archaeological potential. Whilst the main parcel of land is located in flood zone 1, the proposed driveway leading from Stone Hill falls within flood zones 2 and 3.

2.0 The Proposal

- 2.1 Planning permission is sought for the erection of a two-storey detached dwellinghouse with associated works. Due to the topography of the site, which slopes downwards to the south, the work would require excavation of the existing embankment. The proposed building appear as a single-storey structure when viewed from the north, with a full two-storey façade when viewed from the south. The proposed dwelling would have a render façade with oak column detailing, seamed copper pitched roof, gable feature with first floor balcony and a single-storey side extension. Internally, the dwelling would contain a kitchen/diner, two living rooms, two bedrooms and a study with associated utility rooms. The dwelling would be surrounded by a garden area, no trees are proposed to be removed to facilitate the development.

- 2.2 The design and access statement submitted with the application states that the new building will be used by an individual who has reduced mobility.

3.0 Consultation Responses

- 3.1 Consultation responses are available in full on the planning file. The main points raised are summarised below.

Sellindge Parish Council

Object for the following reasons:

- Request that the application is called in to the Planning Committee
- The application site is located outside of the development boundary
- Overlooking to neighbouring properties
- A proposed east elevation has not been provided
- Impact on Listed Buildings
- No right of way
- The proposed design is not consistent with any buildings in the vicinity
- Flood risk
- Inadequate ecological assessment

4.0 Representations

- 4.1 One (1) letter of representation has been received objecting to the application for the following reasons:

- The proposed dwelling will directly overlook Glebe Farm and Glebe Farm Barn.
- Inaccurate site plan
- Increased flood risk
- Development would undermine the rural character of the area

5.0 Relevant policies

- 5.1 Local Plan Review Saved Policies: SD1, BE1, BE5, BE7, BE16, TR12, CO1,
- 5.2 Core Strategy Local Plan: DSD, SS1, SS3, SS5, CSD1, CSD4
- 5.3 Places and Policies Local Plan Submission Draft: HB1, HB3, T2, NE2, NE3, HE3
The Submission draft of the Places and Policies Local Plan (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies

Local Plan (2018) may be afforded weight where there has not been significant objection.

5.4 Core Strategy Review Submission Draft 2019: SS1, SS3, CSD4

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

5.5 NPPF: Paragraphs 12, 79, 124, 127, 193

5.6 NPPG: Paragraph: 006 Reference ID: 21b-006-20190315, Paragraph: 001 Reference ID: 26-001-20140306, Paragraph: 001 Reference ID: 8-001-20140306

6.0 The Council's Statement of Case

6.1 The application follows a previous application for two new dwellings on the land south of Glebe Farm that was dismissed at appeal in 2015, due to the impact of the development on the rural setting of the countryside, impact on the Grade II Listed Building and impact on ecology. Notwithstanding this, the Local Planning Authority is mindful that the application site is situated on a different parcel of land to the north, the application has therefore been assessed on its own merits with due regard to relevant material planning considerations.

6.2 The application site is situated outside of any defined settlement boundary and is therefore considered to be in the countryside in planning policy terms. Whilst it is noted that the settlement boundary of the hamlet of Stone Hill is located on the opposite side of the road, the application must be considered with regard to its immediate setting and context, which is within a rural countryside location. Although there are a number of dwellings in close proximity to the application site, there are no local shops or services in the near vicinity. Consequently, it is considered that future occupiers of the proposed dwelling would be heavily reliant on journeys carried out by private car and the proposal is therefore considered to result in the creation of an isolated dwelling and the site is considered to represent an unsustainable form of development in the countryside.

6.3 Paragraph 79 of the NPPF relates to the promotion of sustainable development in rural areas and sets out that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

6.4 Policy CO1 supports the safeguarding of such areas as this, whereby the principle aims of these policies are to protect the countryside and to direct new development within existing settlements. Core Strategy planning policy also

advises that development in the open countryside and on the coast (defined as anywhere outside of settlements within table 4.4 (settlement hierarchy) will only be allowed exceptionally, where a rural/costal location is essential. Furthermore Core Strategy policy SS1 states "Development within Shepway is directed towards existing sustainable settlements to protect the open countryside and the coastline". The site is outside of the settlement boundary and within the countryside, and no exceptional need has been demonstrated.

- 6.5 Core Strategy policy CSD3 sets criteria for new development in the countryside to be acceptable which includes an essential need. In this case, no need has been demonstrated and there is also no housing need within the District to justify new residential development in this locality.
- 6.6 Therefore in order to be acceptable in this location, the new dwelling would have to meet one of the criteria set out in paragraph 79 of the NPPF. In this case, the proposed dwelling would not comply with any of the criteria, as it would not be used by a rural worker (criteria A), it would not represent the optimal use of a heritage asset (criteria B), it would not re-use a redundant or disused building (criteria C), it would not involve the subdivision of an existing residential dwelling (criteria D) and the building would not be of an exceptional design (criteria E).
- 6.7 The proposed residential dwelling would therefore be in conflict with the overall objectives of the NPPF and Development Plan policy which seek to direct development to existing settlements and to protect the countryside. As such, the proposed development would contradict the NPPF presumption in favour of sustainable development (paragraphs 11 & 79) and represent an unsustainable form of development in the countryside, contrary to saved Local Plan Review policies SD1, CO1, and HO1 and Core Strategy Local Plan policies DSD, SS1 and SS3 and the sustainable development principles of the National Planning Policy Framework.

Design and visual appearance and impact on the setting of a Listed Building

- 6.8 The proposed building would be set within the existing embankment, with a full two-storey façade facing onto the shared driveway serving Glebe Farm House and various other buildings to the west. The dwelling would therefore be highly visible when viewed from the entrance to the estate. The property would have a two-storey render façade with oak columns and a seamed copper pitched roof. It is considered that these materials would be at odds with the surrounding historic vernacular of the area which is predominantly brick with clay-tiled pitched roofs.
- 6.9 The new dwelling would be located directly to the north west of Glebe Farm House, a Grade II Listed Building. The dwelling would be linked to Glebe Farm House, given that it forms part of the wider bucolic character and appearance of the area as views can be contained across the application site. The applicant has submitted a heritage statement claiming that the new dwelling would be sited within an existing embankment separated by the shared driveway and landscaping features, thereby having a neutral impact on the setting of Glebe House.

- 6.7 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting.
- 6.8 Paragraph 193 of the NPPF states that great weight should be given to a heritage asset's conservation. Policy BE5 of the Local Plan Review (LPR) states that the Local Planning Authority will refuse applications for development which would adversely affect the setting or character of a Listed Building.
- 6.9 Due to its siting, visibility, two-storey form, incongruous materials and level of excavation it is considered that the introduction of a new dwelling in this location would erode the spatial qualities and rural character of the area which would cause harm to the setting of the designated heritage asset by introducing a dominant and intrusive feature.

Amenities of neighbouring occupiers

- 6.10 The façade of the proposed dwelling would face onto Glebe Farm House to the south east and Glebe Farm Barn to the south east. Whilst the construction of a dwelling in this location would represent a more imposing relationship than currently exists, it is considered that the building would not result in any overshadowing to neighbouring properties. With regard to overlooking, the new windows would be a sufficient separation distance to Glebe Farm House and Glebe Farm Barn (approximately 38m and 20m respectively) to ensure that no significant loss of privacy would occur.
- 6.11 The new dwelling would be located to the rear of 'Old Tanyard Cottage', however due to the extensive mature trees and planting along this boundary, there would be no conflict between the two buildings that would amount of significant harm to the amenity of the occupants of this property.

Flood Risk

- 6.12 Part of the proposed application site (the proposed driveway) falls within flood zone 3 as identified by the Environment Agency. The applicant has submitted a site specific flood risk assessment which concludes that as the main building would be situated outside of the flood zone 3 area and as such would not result in risk to life nor would it increase the risk of flooding elsewhere. Flood risk management measures are recommended, namely that non-return valves are installed of any new sewer connections to prevent back-flow, and occupiers sign up to the Environment Agency Flood Alert Service.
- 6.13 Given the minimal area that falls within flood zone 3, and the fact that area has already been built upon to form the shared driveway, it is considered that the construction of a new dwelling located entirely outside of the flood risk zone would not amount to a risk to human life nor would it increase the risk of flooding elsewhere.

Parking and highways

- 6.14 The application site would be served by an existing shared driveway. No details have been provided as to the intended parking arrangement of the new dwelling,

and given the fundamental concerns with the application this information has not been sought at unnecessary expense to the applicant. It is considered that given the relatively large size of the plot, an appropriate level of off-street parking provision could be provided on the site in accordance with TR12 of the LPR.

Ecology

- 6.15 The grassland within the appeal site and the presence of mature trees and hedgerows within and around its boundaries could reasonably provide habitat for a variety of fauna and flora. The close proximity of the application site to a waterway, located a short distance to the north, could increase the changes of the presence of protected species.
- 6.16 The applicant has submitted an ecological appraisal which sets out that given the nature of the land, which is currently a mown lawn area, there is little opportunity for habitat other than in the nearby trees. It was identified that the trees could act as a commuting route for bats and habitat for breeding birds. Various biodiversity enhancement measures are recommended, including new planting of shrubs and trees, low wattage external lighting to minimise disturbance to bats, the installation of bat boxes.
- 6.17 Given that no trees or area that could reasonably provide habitat for fauna and flora are proposed to be removed to facilitate the development, it is considered that if the application were otherwise acceptable, measures to enhance the biodiversity on site could be secured by a suitably worded condition.

Archaeology

- 6.18 The County Council Archaeology Officer has been consulted on the application site yet no response has been received. It is considered that if the application were otherwise acceptable, the impact of the development on archaeological findings could be mitigated by suitably worded condition securing a programme of archaeological work prior to the commencement of development.

Environmental Impact Assessment

- 6.19 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Other issues raised

- 6.20 The submitted design and access statement sets out that the proposed dwelling is intended to be built for an individual with reduced mobility. It is noted that the proposed layout includes two storeys of accommodation, with sleeping accommodation at first floor level which does not lend itself to a fully accessible layout. Notwithstanding this issue, the personal circumstances of the application are noted and have been fully considered in the overall planning balance of the application. In this instance however the significant harm caused by the development as highlighted above, would outweigh the public benefit and the application is recommended for refusal on this basis.

Local finance considerations

- 6.21 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 6.22 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £125 per square metre for new residential floor space.

7.0 Conclusion

- 7.1 In light of the above, it is considered that the application would not represent sustainable development as it would involve the creation of a new dwelling in the countryside. In addition, the proposal would result in harm to the character and setting of a Grade II Listed Building. The LPA would therefore recommend that the proposal should be refused for the reasons below.

8.0 Suggested conditions

- 8.1 In the event that the appeal is allowed, the Council wishes the Inspector to consider the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless otherwise agreed in writing by the local planning authority the development or work shall only be carried out in accordance with drawing numbers This decision relates specifically to drawing(s): 2019.07.03-1 Rev A, 2019.07.03-2 Rev A, 2019.07.03-3 Rev A, 2019.07.03-4 Rev A, 2019.07.03-5 Rev A, 2019.07.03-6 Rev A revised drawings received on 05/08/2019

Reason: To ensure the development or work is in accordance with the permission, consent or approval given.

3. Prior to the commencement of the development hereby approved samples of the materials to be used in the construction of the external surfaces of the development hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples.

Reason: To ensure the protection of the rural environment given the location and siting of the building.

4. No construction work above the slab level of any building on site shall take place until full details of both hard and soft landscape works have been submitted to the local planning authority including an implementation programme and maintenance schedule. No building shall be occupied until an approved landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In order to protect and enhance the appearance of the area.

5. No development shall commence until details of the proposed means of surface water disposal have been submitted to and approved by in writing the Local Planning Authority in consultation with Southern Water. Development shall be carried out in accordance with the approved details.

Reason: To ensure proper drainage and avoid pollution of the area surrounding the site in accordance with policies SD1 and U4 of the Shepway District Local Plan Review.

6. The parking shown on the approved plans shall be kept available for domestic parking purposes in connection with the dwellings at all times.

Reason: To ensure the permanent retention of the space for parking purposes within the curtilage of the site in order to avoid obstruction of the highway and safeguard the amenities of adjacent properties in accordance with policies TR12 and SD1 of the Shepway District Local Plan Review.

7. Details of the facilities for storage and collection of refuse (including areas for recycling) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be made available for use prior to the dwellings being first occupied. Such areas as agreed shall thereafter be retained for refuse/recycling storage purposes.

Reason: To ensure adequate means of refuse collection in the interests of the amenities of residents in accordance with policy SD1 of the Shepway District Local Plan Review.

8. The development hereby approved shall incorporate a bound surface material for the first 5 metres of the access from the edge of the highway.

Reason: In the interests of highway safety in accordance with policy TR11 of the Shepway District Local Plan Review.

9. The development hereby permitted shall not be occupied until space has been laid out within the site for cycle parking in accordance with the approved plans and shall be retained as such thereafter.

Reason: To ensure that facilities are available for the parking of bicycles so as to encourage access to the site by means other than private motor car in accordance with policy TR5 of the Shepway District Local Plan Review.