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## Appeal Decision

Site visit made on 5 December 2024

by **S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7 February 2025**

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**Appeal Ref: APP/V2255/W/24/3344926**

**Digswell, Lower Hartlip Road, Hartlip, Kent, ME9 7SX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Miss Clair Webb against the decision of Swale Borough Council.
  - The application Ref is 23/505840/FULL.
  - The development proposed is demolition of 2no. commercial premises (Use Class E) and erection of 4no. dwellings together with associated parking, refuse and cycle stores, and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal site is within the zone of influence of the Swale, Thames and Medway Estuary Special Protection Areas (SPAs). The protected habitats and their associated bird populations can be harmed by disturbance arising from additional recreational visitors to the protected areas.
3. However, a mitigation strategy, the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS) has been adopted by the local authorities in the affected area, in partnership with Natural England (NE). NE were consulted on the application and raised no objection to the proposal subject to a contribution towards the SAMMS. The appellant has made a direct payment to the Council of £1,313 towards the SAMMS. Based on this the Council is satisfied that its second reason for refusal has been addressed. I return to this matter below.
4. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I am satisfied that none of the changes was material to the assessment of the proposal and have determined the appeal accordingly.

### Main Issues

5. The main issues are therefore:
  - a) Whether the site is suitable for residential development having regard to local and national planning policy for the location of housing;
  - b) The effects of the proposal on the character and appearance of the area.



**Reasons***Suitability of location*

6. The Council's spatial strategy, set out in Policy ST3 of the Swale Borough Local Plan 2017 (Local Plan), directs development to sites within urban centres and well-connected villages. Policy CP2 of the Local Plan seeks to locate development in areas which minimise the need to travel for employment and services and facilitate the use of sustainable modes.
7. The appeal site lies outside any settlement boundary and is in the countryside for the purpose of planning policy. It lies between two villages; Newington to the east, categorised as a rural local service centre, and Hartlip to the south-west, defined as a village in the Council's spatial strategy.
8. Whilst the site is not very far from the edge of the settlement of Newington to reach the convenience store and other services in Newington on foot would take approximately 20 minutes. The journey would be on a narrow footpath alongside the northern side of the A2, a busy road. This would not be a convenient or comfortable experience, particularly in inclement weather. To reach the local primary school would take nearly 30 minutes, whether by walking along the A2 or going via Breach Lane. Neither journey would be suitable for young, unaccompanied children. Cycling into Newington would be possible for some journeys, although there would be a perception that doing so along the A2 would not be safe due to the volume and speed of traffic.
9. Hartlip is a village with only limited facilities, the most important of which is a primary school. A journey to it from the appeal site would necessitate walking or cycling along narrow, unlit country lanes with no footways. This would be totally unsuitable for young children and anyone with mobility problems. Access to employment, shopping, health and other education establishments would require residents to travel to nearby larger settlements.
10. The National Design Guide states that for local facilities to be considered accessible on foot they should be no more than a 10-minute walk away (800m). In this case most of the facilities that future residents would require to meet their day-to-day needs lie significantly beyond this distance. This, combined with the characteristics of the routes they would have to use, would make them unlikely to choose to walk or cycle. It would deter the use of active travel modes as it would be safer and more convenient to use a car.
11. There are bus stops within walking distance of the site which provide hourly services to Medway and Sittingbourne. However, the proposal includes 16 parking spaces, so most future occupants are likely to have a choice of travel mode. As traveling by car would be easier, quicker, and a more cost-effective choice for most journeys, use of walking, cycling or public transport is unlikely to be used more than occasionally.
12. For these reasons, I conclude the proposal would not be a suitable location for new housing and would conflict with the aims of the above policies.

*Character and appearance*

13. The site lies to the rear of the host property, Digswell, and is reached via a narrow track. It includes two large barns adjacent to each other, constructed of corrugated sheeting and with semi-circular profiles. These buildings are in



light industrial use Class B1. The remainder of the site is an open parking area. There is other commercial development in the vicinity including a garden centre and small industrial estate. Nevertheless, the area has a predominantly rural character where the scattered residential development outside village boundaries is characterised by homes in good sized plots with direct street frontage. The proposal would demolish the existing barns and replace them with four detached dwellings of individual design arranged around a short cul-de-sac some distance from Lower Hartlip Road. It would be a form of backland development with no frontage access.

14. Each dwelling would have a minimum of 3 parking spaces. The proposed layout and designs are more typical of those found in suburban areas. The awkward shape and size of the plots serves to demonstrate the contrived nature of the proposed layout. This is illustrated by the proximity of the northern and eastern elevations of the house on plot 1 to the shared cul-de-sac. The need to provide turning and parking areas for vehicles would take up a disproportionate amount of the site, leaving little room for meaningful landscaping. The overall footprint and bulk of development would be greater than the existing barns and spread across a greater part of the site. Consequently, the scheme would be a poor quality, cramped layout which would be completely out of keeping with the character and grain of surrounding development where dwellings have direct frontage access and most occupy good sized plots. It would therefore fail to reinforce local distinctiveness or provide a positive sense of place.
15. This leads me to conclude that the proposal would be harmful to the character and appearance of the area. The use of materials which reflect houses elsewhere in the vicinity would not diminish the harm arising from the poor layout of the site and its incongruous location to the rear of existing development. The proposal would conflict with Policies CP4, DM14 and DM24 of the Local Plan which, amongst other things, require development to be sympathetic and appropriate to its location and context, thereby creating safe, accessible and attractive places.

#### **Other Considerations**

16. Prior approval has been granted for the removal of both barns and the erection of replacement buildings containing 2 flats each to provide a total of 4 dwellings. It is therefore contended that the principal of 4 dwellings on the site has already been established through this fallback position.
17. However, 2 flats each with 3 bedrooms, served by what appears from the plan in the appellant's appeal statement to be 6 parking spaces, is materially different from the current proposal. In any event proposals which are promoted through the prior approval process are assessed against the provisions of the General Permitted Development Order, not the development plan. Furthermore, policies that are relevant to the conversion or replacement of existing buildings are not the same as those to assess a proposal for new dwellings in the countryside.
18. It therefore does not follow that because prior approval has been secured for 4 units of accommodation on the site, residential development in the form of a fundamentally different scheme is acceptable. I therefore give this matter little weight in my assessment of the appeal proposal which I have determined on its individual planning merits.



**Planning Balance**

19. The Council is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS), which currently stands at 4.1 years, a notable shortfall. In these circumstances paragraph 11 d) of the Framework is engaged.
20. The provision of 4 dwellings would contribute towards housing need in the borough. It would be a modest benefit. However, if the fallback scheme of 4 flats was implemented it would also provide 4 additional units of accommodation. Therefore, although the proposal would provide larger dwellings, there would be no net increase in the number of units of accommodation arising from it. In these circumstances the social and economic benefits arising from the proposal would be limited, particularly as the borough's greatest housing need is for homes with 2 or 3 bedrooms.
21. I found that the location of the dwellings would be contrary to the Council's spatial strategy and result in future residents being over-reliant on private transport to reach the facilities and service that they require. This would be contrary to the Framework's aim of locating housing in rural areas where it will enhance or maintain the vitality of rural communities. The proposal would also harm the character and appearance of the area and fail to comply with the Framework's approach to design, which requires development to add to the overall quality of the area through appropriate layouts and landscaping which establish a strong sense of place.
22. This leads me to conclude that the cumulative adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits of the proposal when assessed against the Framework as a whole. The presumption in favour of sustainable development therefore does not apply to this case. The proposal is unacceptable.
23. If I had come to a different conclusion, it would have been necessary for me to be certain that the mechanism that secured the contribution towards the agreed mitigation measures set out in the SAMMS was robust and effective in addressing the identified harm to the habitats site. However, as I am dismissing the appeal for other reasons, this has not been necessary.

**Conclusion**

24. The proposal conflicts with the development plan and there are no other considerations, including the shortfall in housing land supply, which indicate that a decision should be made other than in accordance with the development plan.
25. For this reason, the appeal should be dismissed.

*S M Holden*

INSPECTOR