



Planning Inspectorate

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## Appeal Decision

Site visit made on 10 April 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> May 2025

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**Appeal Ref: APP/V2255/W/24/3349459**

**Building 3, Hales Court, Paradise Farm, Lower Hartlip Road, Hartlip ME9 7SU**

- 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 Mr Colin Hales against the decision of Swale Borough Council.
  - The application Ref is 23/505514/FULL.
  - The development proposed is Conversion of 2no. agricultural buildings to create 1no. three bedroom dwelling, erection of infill extension, alterations to fenestration including associated access, parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. One of the Council's reasons for refusal related to insufficient information being provided to demonstrate that the proposal would not result in harm to protected species and biodiversity.
4. A Preliminary Ecological Assessment with findings, and a Night Time Bat Survey was submitted with the appeal. The bat survey notes that no roosting bats were seen emerging from the building at the time of the survey, and a low number of foraging and commuting bats were identified in the area. As the Council and Kent County Council's Ecology department have reviewed the reports, I have accepted their submission and taken account of this evidence.
5. The Council has confirmed that the survey and proposed mitigation measures are sufficient to overcome the reason for refusal, subject to the imposition of conditions requiring that works are completed outside of bird breeding season, the submission of a sensitive lighting plan and installation of enhancement features, such as bat boxes. They therefore advise that they no longer wish to defend the reason for refusal in respect of protected species, and I do not address this matter in the reasoning below.
6. I note comments from an interested party in relation to the ownership of the drive from Lower Hartlip Road to the appeal site. However, in terms of ownership, the appellant signed certificate B on the planning application form, which indicates that

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they were not the sole owner of the land and I understand that notice was served. I therefore do not consider that anyone has been prejudiced by the issue.

#### **Main Issue**

7. The main issue is 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.

#### **Reasons**

8. The appeal site lies within a small cluster of houses in a rural area accessed via quiet, rural roads. As the appeal site is set within a small cluster of buildings in residential use, the main parties agree that it is not isolated within its immediate environment. Nor is it isolated in the context of paragraph 84 of the Framework. Nevertheless, it is in a rural setting, some distance from the nearest settlement.
9. Paragraph 84 does not imply that a dwelling has to be "isolated" in order for restrictive policies to apply and there may be other circumstances when development in the countryside should be avoided. Whilst the proposal may not be "isolated", this does not mean that it will accord with development plan policies that seek to prevent the location of new housing outside of settlements.
10. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Local Plan) 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.
11. The main parties agree that the proposal would be located outside any defined development boundary and the Council indicate that the appeal site lies approximately 360 metres from the built up area of Hartlip. Consequently, the site is within an area of open countryside.
12. I acknowledge that the supporting text to Policy ST3, at paragraph 4.3.23, refers to the protection of open countryside from isolated and/or large scale development. However, 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.
13. The appeal site's lack of isolation with regard to paragraph 84 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 83.
14. Hartlip is a village with only limited facilities including a primary school, church and public house. It has no bus service. To access facilities in Hartlip or the nearest bus stop on the A2, the occupants of the proposed dwelling would have to walk or cycle along the remote, Lower Hartlip Road, which is 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.

15. Access to employment, shopping, health and other education establishments would require residents to travel to nearby larger settlements such as Sittingbourne which is over 4 miles away. 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.
16. The decision notice and officer report refer to Policy DM 3 of the Local Plan which states that planning permission will not be permitted where it would reduce the potential for rural employment and/or community facilities unless the site/building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The policy's supporting text states that evidence of demand should include the results of efforts made to market the building as available for employment use, normally with a planning permission.
17. The appellant indicates that the buildings could not be used for rural employment given their condition, and there is considerable doubt that the owner of the access driveway would allow it to be used for business purposes. However, in the absence of substantive evidence in relation to either of these issues, it has not been demonstrated that the buildings use for employment or community uses would be undesirable or unsuitable.
18. There is disagreement between the main parties as to the suitability of the buildings for conversion and the extent of works required to undertake the development. However, as outlined above, as the appeal site is not isolated, the proposal would not adhere to the requirements of paragraph 84c) of the Framework.
19. The proposal would involve the enlargement of the existing buildings and the limited domestication of the appeal site. However, given the location within an existing group of five dwellings and associated outbuildings, this would have a neutral effect on the rural character of the area. The use of black stained weatherboarding would reflect the rural vernacular and would not harmfully erode the buildings' original character.
20. However, 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, CP2, CP3, DM3 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.



**Other Matters**

21. The appeal site lies less than 6km from the Thames, Medway and Swale Estuary 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.
22. 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.
23. The main parties agree that the appellant has completed the SAMMS payment form and made a direct payment to the Council of the relevant sum. However, 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.
24. The Framework seeks to significantly boost housing supply. It also encourages the optimal use of underutilised land. 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 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.

**Planning Balance**

25. The Council indicate that they cannot demonstrate a five-year housing land supply. The information before me suggests that it stands at 4.95 years, which is a small shortfall. However, due to the provisions of footnote 8, the balance in paragraph 11d(ii) of the Framework applies such that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to specified key policies.
26. Alongside my findings that it has not been demonstrated that the buildings use for employment or community uses would be undesirable or unsuitable, 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. 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.
27. The proposal would deliver one dwelling in an area of housing need. This would reflect a small but beneficial contribution to the choice of homes in the area. There would also be temporary and ongoing economic benefits arising from the development. This would support the Government's aims of boosting the supply of homes, the more efficient use of land and improve the current shortfall in the

Council's housing land supply. Biodiversity enhancement features such as planting and new bat boxes would be installed. Overall, whilst these are important benefits, given the modest scale of the development I attribute limited weight to them.

28. Accordingly, I find that the adverse impacts arising from the development would significantly and demonstrably outweigh the minor weight attributed to the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development does not apply in these circumstances.

#### Conclusion

29. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*B Pattison*

INSPECTOR