



Appeal Decision

Site visit made on 16 September 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Appeal Ref: APP/V2255/W/25/3363107

Land rear of 6 Coastguard Cottages, Plough Road, Eastchurch, Sheerness, Kent
ME12 4JH

- 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 and Ms Jackson and Lambourne against the decision of Swale Borough Council.
 - The application Ref is 23/505819/FULL.
 - The development proposed is described as 'proposed change of use of land to provide an additional bungalow with associated amenity space and parking.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the Council's decision notice as it more clearly identifies the land to which the proposal relates.
3. The first reason for refusal refers to Policy CT2 of the Swale Borough Local Plan. The Council has since confirmed that this should have been a reference to Policy CP2. The appellants have referred to Policy CT2 in their appeal statement but addressed the sustainable transport issues set out in Policy CP2. I am therefore satisfied that the appellant has not been prejudiced by the Council's error.

Main Issues

4. The main issues are:
 - a) the effect of the proposed development on the Medway, Thames and Swale Estuary Special Protection Area and Ramsar site; and
 - b) whether the appeal site is an appropriate location for the proposed development having regard to local and national policies for the distribution of housing; the accessibility of the site to services and facilities; and the effect of the proposed development on the character and appearance of the area.

Reasons

Medway, Thames and Swale Estuary Special Protection Area and Ramsar Site

5. The Medway, Thames and Swale Estuary Special Protection Area (SPA) and Ramsar Site provides wetland and important habitat that is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). These areas are easily disturbed by recreational activity

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from people living within a 'zone of influence' of the protected areas. The appellants do not dispute that the appeal site lies within the zone of influence.

6. However, the appellants assert that future residents of the new dwelling would not be inclined to visit these protected areas. However, I cannot be certain that this would be the case and that all future residents would never visit the SPA/Ramsar site. I must therefore proceed on the basis that there is a reasonable likelihood that these areas would be accessed for recreational purposes by future occupiers of the development. While the effects of the development alone would be limited, when considered in combination with other plans or projects additional recreational visitors to the protected areas would be likely to have significant effects.
7. The Habitats Regulations require me to consider any avoidance or mitigation measures that would be capable of addressing the adverse effects and to be certain that they would be effective. I have been provided with information and it appears that the impact on the sensitive areas could be monitored and managed to a satisfactory level through a tariff-based system that would fund various measures which could include awareness raising, on-site wardens, provision of signage and access infrastructure. Natural England, who are the statutory conservation body, agree that such payments can, in this instance, avoid an adverse effect on the integrity of the protected areas.
8. An applicant can either make a direct payment to the Council, in line with the appropriate tariff, or sign a unilateral undertaking to pay the tariff at a later date. I acknowledge that in their appeal statement the appellants indicated a willingness to make the appropriate payment upon planning permission being granted. I am not aware that this position has changed in the interim.
9. While I do not doubt the appellants' intentions, if suitable mitigation has not been secured at the point of decision, the Habitats Regulations state that planning permission should only be granted if there are reasons of overriding public interest and that suitable compensatory measures are secured. As this case does not accord with those requirements, permission cannot be granted.
10. Consequently, I find that the proposed development could result in harm to the integrity of the SPA/Ramsar site and would conflict with both the Habitats Regulations, and Policies ST1, DM14 and DM28 of the Swale Borough Local Plan 2017 (SBLP). These policies, amongst other things, require development to avoid significant harm to, and adequately mitigate the effects upon, biodiversity, and that any adverse effect is only permitted in exceptional circumstances where there are overriding reasons of public interest and damage can be fully compensated.
11. The development would also conflict with the National Planning Policy Framework (the Framework), which requires development to protect and enhance the natural environment and sites of biodiversity value, improve biodiversity, and that where significant harm to biodiversity cannot be adequately mitigated, permission should be refused.

Location

12. The appeal site is located adjacent to a small terrace of cottages. There are buildings to the north of the site and there are nearby leisure/holiday parks. Nevertheless, for the purposes of planning policies, the site is within the open countryside and thus outside a built-up boundary.

Policies for the Distribution of Housing

13. Policy ST3 of the SBLP is clear in setting out the Swale Settlement Strategy that development will not be permitted outside the built-up boundaries unless supported by national planning policy and is 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 areas.
14. SBLP Policy ST1, which seeks to deliver sustainable development and Policy CP2, which requires new development to minimise the need to travel and facilitate sustainable transport, both require compliance with the settlement strategy as set out in Policy ST3.
15. Overall, the development plan is broadly reflective of the Framework as regards the location and provision of new dwellings and a need to protect the countryside from inappropriate development.
16. However, there is nothing before me to indicate that the proposal meets any of the exceptions set out in the SBLP and so demonstrate that a countryside location is needed for the development. Consequently, the proposal would conflict with the locational requirements of local and national policies which seek to control development in the open countryside.

Accessibility

17. The nearest centres with a range of facilities and services would be either Eastchurch or Minster. Eastchurch village centre is said to be some 1.75km by road from the appeal site and slightly longer by public rights of way. Minster High Street would be approximately 2.5km away. Walking to either centre is not likely to be practicable given the nature of the routes and distances involved. While both Minster and Eastchurch are said to be easily reachable by bike, a return trip to purchase items or other reasons is unlikely to be attractive to many people.
18. There is said to be only an infrequent bus service which travels along Plough Road. As an alternative, it would be possible to walk via the public paths to Court Terrace Drive to get a bus, but I have no details as to the frequency of such services. I am also mindful that while the route to Court Terrace Drive was walkable on the day of my site visit, it is an unlit mown pathway for much of the way and so not necessarily attractive at night or in bad weather. Therefore, given the options for sustainable transport, the reality is that for most day-to-day needs, future residents would rely on the use of a private motor vehicle.
19. A previous appeal decision on a neighbouring site in 2020 similarly noted that residents would be likely to make most of their journeys by car. However, the Inspector acknowledged that opportunities to maximise sustainable transport varies between urban and rural areas and given that the distances to the nearest centres would be short, future residents would have an acceptable level of access to services and facilities. While the Framework has been revised since that decision, the thrust of Chapter 9 and its overall approach to the issue of sustainable transport has not materially changed.
20. The Council suggest that the nature of that appeal development was not comparable to the current proposal as it was for a shared stopping pitch for related

traveller families, not for permanent residential accommodation. However, the committee report for that proposal noted that the site would be permanently occupied by the applicants. Furthermore, the appeal decision, while limiting occupancy to gypsies and travellers, did not contain any conditions restricting permanent occupancy, only imposing conditions limiting the number of caravans.

21. Therefore, I find the situation set out in the previous appeal to be comparable to the current proposal and consequently the level of access to services and facilities is not a matter which weighs against the scheme.

Character and Appearance

22. The appeal site is amenity land serving No. 6 Coastguard Cottages. It runs along the rear of the whole terrace, separated from the individual rear garden areas by a row of single storey outbuildings. At the time of my visit the site contained amongst other things various outbuildings, vehicle parking and informal seating. The site is enclosed by fencing to Old Billet Lane. To the north of the site is a sizable static caravan with other buildings also further to the north of the site.
23. The fencing along Old Billet Lane largely screens the site's outbuildings and other paraphernalia from wider views. Although the site is evident from Plough Road, it is not highly visible in the landscape and appears as part of a ribbon of development along Old Billet Lane.
24. The nearby static caravan appears as a permanent structure with large areas of hardstanding around it. It has an appearance not dissimilar to that of a lodge or chalet building. Within that prevailing context, the appeal site would be akin to an infill plot, between two established residential sites.
25. The proposed dwelling would be positioned towards the rear of the site. Its single storey nature and roof design would help to limit the extent to which the building would be visible. Landscaping and boundary enclosures would further assist in minimising its visibility.
26. Clearly the nature and use of the site as a separate residential unit would be evident and a change to how it is currently perceived. A new dwelling in this location would reduce the sense of being in the countryside and the inherent tranquillity that comes from minimising development in such areas. However, the site already has a domestic character given its use in relation to the existing cottage and would be sited between existing residential uses. Consequently, the scale of change and resulting adverse visual effect would not be large.

Findings

27. For the reasons set out above, the site's accessibility to services and facilities would be acceptable and any visual harm would not be extensive.
28. Nonetheless, the proposal would still be contrary to the overall thrust of Policy ST3 and the Council's spatial strategy to avoid the proliferation of development in the open countryside. Furthermore, given the requirements of Policies ST1 and CP2 to accord with ST3, there would be conflict with these policies too. There would also be conflict with Policies DM14 and CP4 which, amongst other things seek to ensure that developments reflect the positive characteristics and features of the site and locality and strengthen a sense of place, as well as according with other development plan policies. For similar reasons the proposal would also conflict

with the Framework's policies for the location of housing and protection of the countryside.

Other Matters

29. A single dwelling would be a small addition to the supply of housing in the area, but this nonetheless still weighs in favour of the scheme given that the Council is unable to demonstrate a five-year supply of housing land.

Planning Balance

30. The site is contrary to the development plan as it is located outside of a settlement. However, future residents would have an acceptable level of access to services and facilities; and the adverse visual effect of the dwelling would not be high. These factors, together with the undersupply of housing in the area, reduce the level of conflict with the development plan.
31. The Council confirmed that it is unable to demonstrate a five-year supply of housing land, with supply having been identified as 4.1 years at the time of the Council's decision on the planning application. Paragraph 11 of the Framework is therefore engaged.
32. The dwelling would be aligned with the objectives of the Framework to boost the supply of homes to meet people's living needs. This is particularly important in an area which is not providing a sufficient supply of housing to meet national policies. The proposal could be built out quickly and even a small dwelling would have some economic benefits both during construction and upon occupation and there may be some social benefits alongside them.
33. On the other hand, the proposal would result in an unjustified proliferation of housing in the countryside and be likely to have significant effects on the Medway, Thames and Swale Estuary Special Protection Area and Ramsar Site. Indeed, the application of policies in the Framework that protect an area of particular importance (in this case the SPA/Ramsar site) provide a strong reason for refusing the proposal.
34. Accordingly, under Paragraph 11(d)(i) of the Framework, planning permission should be refused and, therefore, I do not need to consider or weigh the identified harms, including those conflicts with the development plan, against any of the other identified issues or proclaimed benefits of the proposal.

Conclusion

35. The proposal conflicts with relevant policies of the development plan. There are no other material considerations, including the Framework, to indicate that the decision should be made other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above, the proposal is unacceptable and so the appeal should be dismissed.

Stewart Glassar

INSPECTOR