

**Planning Inspectorate**

Appeal Decision

Site visit made on 1 October 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2025

Appeal Ref: APP/V2255/W/25/3362798

Pear Tree House, Otterham Quay Lane, Upchurch, Kent ME8 8QW

- 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 R Parmar against the decision of Swale Borough Council.
 - The application Ref is 24/503019/FULL.
 - The development proposed is demolition of 4no. former agricultural buildings, and erection of 1no. self-build detached dwelling and car port with associated hard and soft landscaping.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and Appearance

3. This part of Otterham Quay Lane is characterised by open land with some sporadic agricultural buildings and housing. Some open land is part of a golf course and there is also residential development to the west, however this is clearly separated from the site by open fields. Overall, this results in an open, rural character to the surrounding area. The appeal site is part of an Important Local Countryside Gap (ILCG) and the development plan sets out their purposes, including that the ILCG should safeguard the open and undeveloped character of the areas, and prevent its erosion by built development or changes to the rural open character.
4. The appeal site is a collection of farm buildings arranged around a central courtyard and is highly visible from the adjacent public right of way. There are single houses on either side, however, even seen together these are a very small group of buildings within a wider countryside setting. The existing agricultural character of the site with its associated modest built form therefore makes a positive contribution to the rural character of the surroundings and the ILCG.
5. The proposal would be a clearly domestic form of development. The large two storey house would be located centrally within the plot with domestic gardens to the rear. To the front there would be hardstanding for vehicle access and car parking and the detached double garage would also be to the front. The proposed development would result in a clearly residential, urban appearance to the site.

6. Therefore, even though there would be a reduction in the volume of buildings on the site, the proposed development would encroach into and harmfully erode the rural character of the site and the surrounding area. This would conflict with the purposes of the ICLG as set out above and would be harmful to the intrinsic character and beauty of the countryside. The loss of this important rural character in this locally designated countryside location would be seriously harmful.
7. In 2022 it was determined that prior approval was not required for the conversion of two of the existing buildings to dwellings. Some time has passed since this decision, but there is no reason to conclude that the same decision would not be reached by the Council if a new prior notification application were considered. There is therefore a real prospect that these works would take place.
8. The conversion of two of the existing farm buildings to domestic use is therefore a realistic fallback position. However, under this consent, the scale and location of the buildings would remain largely the same with their existing agricultural appearance broadly retained. As such, even with the retained hardstanding the effect of this permitted development on the character and appearance of the area would be less urbanising than the single, large dwelling proposed. Therefore, the proposed development would have a clearly more harmful effect on character and appearance than the fallback position. Consequently, in this regard it does not justify the development proposed.
9. Therefore, the proposed development would have a harmful effect on the character and appearance of the area and would be contrary to policies CP4, DM14 and DM25 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP). Together these require high quality design which is appropriate to its surroundings and does not undermine the purposes of the ILCG. These are broadly in accordance with the National Planning Policy Framework's (2024) (Framework) requirement to create high quality buildings and places.

Other Matters

10. The Council cannot demonstrate a 5 year supply of deliverable housing sites and the planning officer's report states that there is a 4.1 year supply. The proposed single new dwelling would make an important but modest increase to housing land supply in this area where there is a shortage. The Council also have an identified need for self build properties in this area. The description of development refers to this being self build housing, and if this house were secured as such, a single dwelling would make a positive but small contribution.
11. Together policies ST1, ST3, CP3 and CP4 of the LP set out the settlement strategy for Swale which seeks to focus growth within existing urban areas, minimise the need to travel and facilitate sustainable transport. The proposed development would be accessed via an uneven and unlit track with no pavements. Although there are some services nearby, this would not provide an attractive walking or cycling route to these facilities or to public transport, particularly after dark and for those with young children or mobility issues. As such, the majority of journeys from the proposed dwelling would be likely to be via private car. However, based on the evidence before me, this effect would be similar to that of the realistic fallback position. Consequently, in these circumstances the proposed development would be suitably accessible to local facilities and services.

12. The development proposes housing outside the built up area boundaries and would be contrary to these policies in this regard. However, taking into account the housing land supply position, and the lack of harm with regard to accessibility to local facilities and services, in this particular case I afford the conflict with policies ST1, ST3, CP3 and CP4 of the LP limited weight.
13. The proposed development would provide one larger four bedroom dwelling with a car port for 2 cars and additional space for parking. Although there is nothing before me to suggest that, although smaller, the two fallback dwellings would not provide appropriate living conditions for future occupiers, or unacceptable parking arrangements. As such any benefit in this regard would be minimal.

Planning Balance

14. The Council does not have a five year housing land supply. Therefore, the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework would be engaged. This requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole having particular regard to key policies.
15. The scheme would provide an increase of one generous four bedroom self build dwelling with parking in an area where there is a shortfall in the delivery of housing and self built housing, along with the associated social and economic benefits of this provision. Nevertheless, taking into account the scale of the development, this results in important, but no more than modest benefits.
16. On the other hand, for the reasons set out above it would not be sympathetic to local character or add to the overall quality of the area and would not secure a well designed place nor would it make an effective use of land in this regard. This harm would be serious. Whilst there is a realistic fallback scheme, this does not justify the development proposed for the reasons set out above and the fallback scheme attracts limited weight in this regard.
17. Therefore, these serious adverse effects would significantly and demonstrably outweigh the modest benefits set out above when assessed against the Framework taken as a whole and having particular regard to key policies. Consequently, the presumption in favour of sustainable development would not apply in this case.

Special Protection Areas (SPA) and Ramsar sites

18. The Swale and Medway Estuary and Marshes SPA and Ramsar sites and the Outer Thames Estuary SPA are habitats sites that have a high level of protection. They are designated for their high plant and invertebrate species diversity and internationally important numbers of overwintering, on-passage and breeding birds of many species. The Council state that the application would result in increased recreational pressure on these areas and has not been able to conclude that, without any mitigation in place, in combination with other plans and projects, there would not be a likely significant effect on the interest features of the site from the proposed development. Notwithstanding this, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Appeal Decision APP/V2255/W/25/3362798

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR