



Appeal Decision

Site visit made on 16 July 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/E2205/W/19/3227775

Land at Church Hill, High Halden TN26 3JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Nicholas Parkin of Hamlin Estates against Ashford Borough Council.
 - The application Ref 17/01868/AS, is dated 14 December 2017.
 - The development proposed is residential development of up to 26 dwellings.
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Decision

1. The appeal is dismissed and planning permission for residential development of up to 26 dwellings is refused.

Application for costs

2. An application for costs was made by Mr Nicholas Parkin of Hamlin Estates against Ashford Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application form indicates that outline planning permission was sought, with all matters reserved except for access.
4. The application originally sought permission for up to 31 dwellings. This was reduced to 'up to 26 dwellings' during the consideration of the application and I have used this description in the banner heading above and determined the appeal on this basis. A proposed master plan was provided showing a possible layout for 26 dwellings. I have had regard to this drawing.
5. The local planning authority indicated that had jurisdiction for determining this application not been transferred to the Secretary of State it would have been refused. The putative reasons for refusal are, conflict with the development plan in relation to the effect of the proposal on the landscape, character and appearance of the area, the setting of the High Halden Conservation Area (HHCA) and listed buildings, and the absence of a planning obligation.
6. During the course of the appeal a signed planning obligation has been submitted. The Council and Kent County Council accept that this meets their requirements and I have no reason to disagree. The absence of a planning obligation is therefore no longer a putative reason for refusal.

Main Issue

7. The main issue is whether the site is a suitable location for the proposal, having regard to the development plan, its implications for the character and appearance of the area and the HHCA, and the setting of Listed Buildings.

Reasons

Housing land supply

8. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council is of the view that it can demonstrate a five year housing land supply and the appellant has not provided any detailed evidence to dispute this. The Ashford Local Plan 2019 (ALP) should not be considered out-of-date, in terms of paragraph 11 d) of the National Planning Policy Framework (the Framework). Therefore the 'tilted balance' does not apply.

Location of the proposal

9. The appeal site comprises an open field on the edge of the village of High Halden, and is crossed by a public footpath. It has a field gate onto Church Hill, a rural road that leads into the centre of the village from the surrounding countryside. The site is set at a higher level than the road, separated from it by a hedge, and the land then slopes up towards the edge of the village, adjacent to the church and cemetery. It is outside the built-up area of the village and appears as part of the open countryside, with an overwhelmingly rural character.
10. ALP Policy SP1 sets out the Strategic Objectives for the area, one of which is to focus development at accessible and sustainable locations. ALP Policy SP2 seeks to focus housing delivery at Ashford and its periphery, with development in rural areas of an appropriate scale to reflect the attributes and sensitivities of each settlement. ALP Policy HOU5 sets out the circumstances in which residential development adjoining or close to the existing built up confines of settlements, such as High Halden, will be acceptable. As the appeal site is adjacent to, but clearly outside, the existing built up confines of High Halden, it falls to be considered under this policy.

Character and appearance

11. The site falls within the Biddenden and High Halden Farmlands Landscape Character Area of the Low Weald, with one of the key characteristics being the historic settlements, including High Halden, built around distinctive churches. The site is adjacent to the boundary of the HHCA, which is identified by Historic England in its comments on the proposal as a good example of a small Kentish hamlet formed around a triangular village green whose origins are probably closely linked to farming, so that buildings within the HHCA have a direct relationship to surrounding fields. As an open field immediately adjacent to its boundary, the appeal site is within the setting of the HHCA. The exclusion of the appeal site from the HHCA does not imply that it is not important to its setting.
12. The overall landscape guidelines for the area are to conserve and improve the landscape, including conserving long views out across the Weald. In this edge

of village location, built development is sporadic and informal, with houses being well screened from the road behind boundary vegetation. At the time of my site visit, due to the level of tree cover, the existing built form of the village was screened to a large extent from the surrounding countryside, but due to its elevated position it is likely that the edge of the village would be more apparent in winter when trees are not in leaf. The public footpath across the site leads from the grounds of St Mary's Church, allowing long views across landscape, and linking to the wider rights of way network.

13. The development of the site for up to 26 dwellings would urbanise its appearance, and this would be prominent in views from the surrounding countryside due to the elevated position of the site. I note that the appellant's landscape assessment indicates that the site would not be visible from several viewpoints from the surrounding countryside, but this does not accord with my conclusions following a site visit. I find that the proposal would be readily apparent in several views from the surrounding countryside, albeit partially screened by existing hedges and trees.
14. While matters relating to scale, layout, appearance and landscaping have yet to be fixed, the proposed master plan indicates that in several places the built form would be close up against the boundary of the site with the open countryside, with gardens abutting the existing field boundary, creating a hard edge to the development. While some additional planting is indicated, due to the topography, it would be insufficient to screen the proposal from the surrounding countryside. It would appear as a separate section of development that would not relate well to the rest of the village. The long views from the public right of way which crosses the site would also be curtailed, with rear and side gardens abutting the footpath. I appreciate that the proposed master plan is indicative, but I am not persuaded that it demonstrates that the quantum of development proposed could be satisfactorily accommodated on the site without causing harm to the landscape.
15. The spread of development across the site would be out of character with the sporadic pattern of development on Church Hill in the HHCA, which is generally close to the road and scattered. While there are cul-de-sac's elsewhere in the village, the proposal would be seen within the context of the character of this part of the village, centred on Church Hill. The cul-de-sac layout would be at odds with the urban grain, and this would be apparent in views from Church Hill, the surrounding countryside and the public footpath which crosses the site.
16. The proximity of the built form to Church Hill and the boundary with the HHCA towards the front of the site would also be apparent in views on the approach to the village, and would have the effect of separating the HHCA from its rural setting. I therefore conclude that the proposal would be harmful to the setting of the HHCA.
17. The rural appearance of Church Hill is an important characteristic of the approach to the HHCA through open countryside, with verges and hedges either side. Church Hill is considered by the Council to be a non-designated heritage asset (NDHA), as it is a historic rural lane, which forms an artery in this part of the HHCA with historic and mostly listed buildings on either side. Paragraph 197 of the Framework advises that the effect of an application on the significance of a NDHA should be taken into account in determining the

application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

18. The works to create a new access, reduce traffic speeds and provide a lit footway to join with the existing footway, would introduce urbanising features that would extend the built up appearance of the centre of the village into the surrounding countryside. The formalised appearance of Church Hill with a footway and street lighting would detract from its rural appearance, which would erode its significance. The footway would only affect one side of a relatively short section of the road, so that in the context of the NDHA it would be small scale, but it would nonetheless be harmful.

Setting of St Mary's Church, a Grade I Listed Building, and Duxbury, a Grade II Listed Building.

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act requires that when considering development which affects a listed building or its setting, special regard should be given to the desirability of preserving the building or its setting. Paragraph 193 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of degree of harm and, in essence, the more important the asset, the greater that weight shall be. Paragraph 194 of the Framework confirms that the significance of a heritage asset can be harmed or lost through development within its setting and sets out that any harm to the significance of a designated heritage asset should require clear and convincing justification.
20. St Mary's Church and Duxbury are both immediately adjacent to the appeal site. According to the listing description, the Church dates from Norman times, with later additions in C14 and C15, while the neighbouring farm house of Duxbury dates from C17/C18. I note that Historic England identifies that the Church is an exceptionally fine example of a medieval rural parish church, that the church historically stood on the edge of the village. I saw on my site visit that the rural setting of the Church and the churchyard can still be appreciated, and that the appeal site is within its setting and makes a positive contribution to it. While it may not have a functional link to the Church, it provides the rural backdrop in which the Church is experienced. Duxbury sits within a large garden which separates it from the adjacent fields, and therefore the appeal site makes a limited contribution to its setting.
21. The proposal would result in a significant spread of development across the site, that would interrupt the views across countryside towards the village and its Church. I appreciate that the proposed master plan indicates that an area of open space would be included between the built development and the area immediately adjacent to the Church, so that an impression of the rural setting of the building would be retained. However, the Church would still be separated from the wider rural setting by a substantial area of development. This would be particularly apparent in views from the approach to the village from Church Hill, so that the rural setting of the Church, with glimpsed views of the Church tower, would be undermined. The proposal would thus be harmful to the setting of this Grade I Listed Building.
22. The harm to the significance of the designated heritage asset would be less than substantial in the context of the heritage asset as a whole. In accordance

with Paragraph 196 of the Framework, the harm, to which I afford considerable importance and weight, should be weighed against the public benefits of the proposal. I will deal with this later in this decision.

23. The proximity of development to the rear of Duxbury would result in it becoming detached from the rural setting in which it is experienced, but as the appeal site makes a limited contribution to its setting it would not be harmful.

Conclusion in relation to the development plan

24. For the reasons set out above, the proposal would not comply with the relevant criteria of Policy HOU5 of the ALP. As a result, the site would not be a suitable location for the proposal, with regard to the development plan, the character and appearance of the area and the HHCA, and heritage assets. It would therefore conflict with Policies SP1, SP2, SP6, HOU5, ENV3a, ENV5, ENV13 and ENV14 of the ALP, which seek, amongst other matters, to focus development at accessible and sustainable locations, seeking development with high quality design that protects public rights of way, conserves and enhances the natural environment, and conserves and enhances designated heritage assets and their settings.

Public Benefits

25. In terms of the balanced judgement required by paragraph 196 of the Framework, a number of public benefits have been put forward. The proposal would provide up to 26 dwellings on a windfall site which would make a contribution towards the supply of housing, and would include affordable housing that could meet local housing needs as well as self-build/custom and accessible homes. Additional households in the village would help to support local services and facilities, including the primary school and shop. Short term employment would be created through the construction of the dwellings. However, I have seen no evidence that the housing and affordable housing needs could not be provided for elsewhere in a manner that would be less harmful. I accept that the site would be well located in relation to the centre of the village, but I have identified that the works to provide a footway would be harmful to the character and appearance of the area.
26. A range of benefits would be secured through the planning obligation, including a contribution towards the acquisition of adjacent land as an informal natural green space, for which access would be secured through the appeal site. While the appeal proposal would facilitate the provision of this land for community use, I have seen no evidence that there is an overwhelming need for this which could not be met in another way. Off-site parking and highway safety improvements are referred to, but the evidence before me does not indicate that clear benefits would result from these. I am therefore not persuaded that the public benefits of the proposal constitute clear and convincing justification to outweigh the harm I have identified. The proposal would therefore conflict with the relevant policies of the Framework.

Other Matters

27. I am mindful that permissions have been granted for housing elsewhere in High Halden¹. The appellant states that these raised similar environmental issues to this case. However, while they may have similarities in terms of their location

¹ PA17/00152/AS and PA18/00262/AS

in respect of the built up area of High Halden, I have considered this appeal on the basis of the particular circumstances of the site and found that it conflicts with the development plan.

28. I have also been provided with appeal decisions². In relation to the site at Ocean Bowl, I note that considerable weight was given to the public benefits which were found to outweigh the harm to heritage assets. The appeal at Broden Stables related to the redevelopment of a site that was partially previously developed land, did not appear to have the degree of sensitivity in terms of landscape and heritage assets as this case. They are not directly comparable and do not indicate that this appeal should be allowed.
29. In relation to the site at Bethersden³, I note that it has similarities in terms of the historic setting of the site. However, it was considered at a time when the emerging Ashford Local Plan could be accorded little weight and the Council was not able to demonstrate a five year housing land supply. These cases are not therefore directly comparable to the appeal.
30. The appellant refers to the need for development on windfall sites in order for the Council to meet its housing requirements. The appellant considers that there is capacity for additional housing in the village through the deletion of the Stevenson's Brothers' site from the emerging ALP and that the site is preferable to other potential windfall sites in the area. However, I have considered the proposal in the light of Policy HOU5 of the ALP which specifically allows for development on sites that have not been identified through allocations, and have found that it would be in conflict.
31. Local residents have raised a series of concerns regarding the proposal, but these do not affect my findings on the main issue. I am also aware that there is some local support for the proposal, but this does not outweigh the harm I have identified.

Conclusion

32. The proposal would be in conflict with the development plan for the reasons set out above. There are no material considerations that indicate that the decision should be other than in accordance with the relevant development plan policies. For the reasons set out above, taking into account all matters raised, the appeal is dismissed.

N Thomas

INSPECTOR

² APP/N1730/W/17/3185513 and APP/D0840/W/17/3182360

³ Ref 16/01271/HA