



Appeal Decision

Site visit made on 22 June 2010

by **Christopher Bowden MA (Oxon)**

an Inspector appointed by the Secretary of State
for Communities and Local Government

ED35

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Decision date:
7 July 2010

Appeal Ref: APP/X2220/A/10/2120746

Land rear of Bushley House, Mill Lane, Eastry, Sandwich, CT13 0JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs S Harvey against the decision of Dover District Council.
- The application (Ref. DOV/09/00472), dated 26 May 2009, was refused by notice dated 28 August 2009.
- The development proposed is erection of a detached dwelling and garage.

Decision

1. I dismiss the appeal.

Procedural matters

2. The address above refers to "Bushley House" in line with the decision notice and appeal form. This is more complete than that shown in the application. The submitted drawings show Bushley House as a detached property abutting the site on two sides but it appears from my visit that it is semi-detached and that the other half of the pair is called St Margaret's. This is reflected below. The description of the proposed development is taken from the decision notice. Although it differs from that given in the application I consider that it describes the proposal more accurately.
3. The decision notice mentions policies in the Dover District Local Plan, adopted in 2002 (LP). Policies HS1, CO1 and OS1 have been superseded by policies in the Dover District Local Development Framework Core Strategy, adopted in 2010 (LDF). I have determined the appeal on this basis. However, LP Policy DD1, relating to the second issue below (living conditions), has not been replaced so I have determined the issue on its merits.

Main issues

4. These are the effect of the proposed development on:
 - (i) the character and appearance of the area, with particular reference to the countryside and open space; and
 - (ii) the living conditions of neighbouring residents, with particular reference to noise and disturbance.

Reasons

Character and appearance

5. The site lies behind houses fronting Mill Lane. It is predominantly open, being laid to grass, with a number of mature trees in it and along the boundaries.
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- The main group of walnuts in the site is subject to a Tree Preservation Order (TPO).
6. Apart from the access way linking it to Mill Lane, the site falls outside the village confines of Eastry designated in the LP. Although the LP has now been superseded the confines of Eastry in this location do not appear to have changed. The LDF indicates that development outside settlement boundaries will not be permitted, except in defined circumstances. The document also defines undeveloped land beyond settlement boundaries as "countryside", which it seeks to protect unless development meets certain criteria.
 7. I consider that the site lies in the countryside, as defined above. I am not persuaded that this is altered by its relatively enclosed setting, abutting gardens, allotments and recreation areas rather than open fields. Indeed, the land on three sides of the site falls outside the village confines. The appellant argues that the site should be considered as previously developed land as it once accommodated a builder's yard. However, the site is free of any buildings that may once have been there and the land can reasonably be regarded as part of its natural surroundings. On this basis, I do not consider that the site meets the definition of previously developed land in Planning Policy Statement 3 *Housing*. The existence of metal boundary fencing (now largely obscured by vegetation) does not change my view. In any event, there is no presumption that land that is previously developed is necessarily suitable for housing development.
 8. I do not consider that the proposed house would meet LDF criteria for development in the countryside or otherwise outside settlement boundaries. In particular, there is no clear requirement for a house in this location and it is not, in my view, justified by a need to sustain the rural economy or a rural community.
 9. The site is also open space, as designated in the LP. Again, the advent of the LDF does not appear to have changed this. The LDF seeks to resist proposals that would result in the loss of open space, except in defined circumstances. These include having no overriding visual amenity interest. I accept that the house and garage would occupy a small proportion of the site and that they would be obscured by vegetation from a number of vantage points. Nevertheless, I consider that the house in particular would be visible to a greater or lesser extent from the upper rear windows of neighbouring properties, with glimpses along the access way from Mill Lane. The house would also be clearly visible through the boundary fence from the woodland path leading from the recreation ground.
 10. I therefore consider that the addition of built form to a site currently free of it would damage its openness and the contribution that it makes to the visual amenity of the area and represent harmful and unjustified encroachment upon the countryside. The visual impact would be compounded by the area of hardstanding proposed and the likely intrusion of paraphernalia associated with residential use. I have taken into account the support for the proposal from local residents but this does not change my view.

11. I conclude that the proposed development would have a materially harmful effect on the character and appearance of the area, with particular reference to the countryside and open space. As such it would conflict with the objectives of LDF Policies DM1, DM15 and DM 25.

Living conditions

12. The access to the proposed house from Mill Lane would be via the existing drive. This passes between St Margaret's and No 2 The Laurels and is close to side and rear windows as well as their back gardens. The drive already provides vehicular access to the rear of Bushley House and I noted that there are double-gates from the drive giving on to St Margaret's too. Nevertheless, the proposal would lead to intensification of use of the access unrelated to the existing properties, notwithstanding the point that the appellant can also use the access to visit the site. Although it would only be one additional house, the proposal makes provision for parking for four cars. While the back gardens are fairly well screened by fences and vegetation I consider that the coming and going of extra vehicles would give rise to noise and disturbance of the occupiers of the houses on either side.
13. Again, I appreciate that current occupiers have not raised this as a concern but I consider that it would nevertheless be detrimental to the residential environment of these properties. While there may, at some point in the past, have been vehicle movements along this access associated with the former builder's yard, I have no information about them and the resumption of such use is not in prospect.
14. I conclude that the proposed development would have a materially harmful effect on the living conditions of neighbouring residents, with particular reference to noise and disturbance.

Conclusions

15. The proposal would provide additional housing in a reasonably sustainable location without detriment to protected or other trees on the site. However, I consider that these matters are outweighed by the harm that I have found.
16. For the reasons given above and having regard to all other matters raised, including representations for and against the proposal, I conclude that the appeal should be dismissed.

Christopher Bowden

INSPECTOR