Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 JANUARY 2026

Appeal Ref: APP/V2255/W/25/3368690
Webbenditch Cottage, Cold Harbour Lane, Bobbing, Kent ME9 8NN

- 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 Jake Shaw against the decision of Swale Borough Council.
- The application Ref is 24/504803/FULL.
- The development proposed is erection of a self-build 2 bed dwelling with associated parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for erection of a self-build 2 bed dwelling with associated parking and landscaping at Webbenditch Cottage, Cold Harbour Lane, Bobbing, Kent ME9 8NN in accordance with the terms of the application, Ref 24/504803/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

2. A unilateral undertaking (UU) has been submitted which seeks to secure the property as self-build housing. I will return to this matter later in the decision.

3. The description of development is taken from the decision notice and appeal form as it accurately and clearly describes the development proposed.

Main Issues

4. The main issues are

   - Whether the site is a suitable location for housing with particular regard to its accessibility by sustainable transport modes.

   - The effect of the proposed development on the Medway Estuary and Marshes Special Protection Area (SPA).

Reasons

Sustainable transport

5. Together policies ST1, ST3 and CP2 of Bearing Fruits 2031, The Swale Borough Local Plan (2017) (LP) set out the settlement strategy for Swale. They seek growth to be focused in existing built up areas with development in the countryside only permitted if it protects the intrinsic value, tranquillity and beauty of the countryside amongst other things, and for development to promote access to sustainable forms of transport.

6. Webbenditch Cottage is located outside the built up area boundaries and in the countryside for the purposes of the development plan. It is on a narrow rural road with no lighting or pavements until it reaches Bobbing Hill, a short distance away. From the corner of Bobbing Hill and Cold Harbour Lane there is a lit pedestrian pavement which leads to the A2, where there are bus stops within a short walk and these provide connections between Chatham and Sittingbourne. From here, there are also pedestrian routes into Sittingbourne, although they cross a busy junction of the A2/A249. From the corner of Bobbing Hill there is also a paved, but partly unlit pedestrian footpath which connects with Sheppey Way where there is a pub, fast food restaurant and convenience store within a petrol station, as well as a school beyond. There are pedestrian refuges to cross Sheppey Way. Also, Newington Train station could be reached by cycle along Bobbing Hill and the A2, and although this is a busy main road the route is direct and mainly lit and therefore it would be suitable for some cyclists.

7. An appeal decision from October 2023 for an annexe at the appeal site (ref: APP/V2255/W/23/3321025) states that accommodation would be heavily dependent on the car. Subsequently, planning permission has been granted for a new dwelling in October 2024 at Pigeon Farm Cottage (LPA ref 24/503217/FULL) which is at the corner of Bobbing Hill and Cold Harbour Lane where the pedestrian footpath ends. The Council determined, from that location, future residents would have reasonable access to a range of facilities and services within a 10 minute walk of the site and would not be solely dependent on the private car.

8. From the appeal site to the corner of Bobbing Hill, occupiers would have to walk along a short, straight, stretch of road with narrow verges but no pavement or streetlighting. This would not be an attractive route for pedestrians when it is dark, or for those with children or mobility issues. Nevertheless, given its character and length, it is likely that some occupiers would take the short walk to access the nearby services and facilities. Consequently, in this case and based on the evidence before me now, whilst car journeys would be likely to be required for some trips, occupiers would not be solely dependent on private cars.

9. Although there would be an increase in car journeys, the number of movements associated with this two bedroom dwelling would be limited. In these circumstances, there would not be harm to highway safety.

10. There are limitations as to the choice of transport modes for future occupiers and therefore the proposed development would not promote walking, cycling or the use of public transport and would not be in a sustainable location. However, residents would not be wholly dependent on the car and there would be access to some nearby services and facilities by a choice of sustainable transport modes. This would limit the need to travel and minimise any associated effect on the intrinsic value, tranquillity and beauty of the countryside. As such, the harm in this respect would be modest.

11. Consequently, the proposed development would not be a suitable location for housing with particular regard to its accessibility by sustainable transport modes. Therefore, it would conflict with policies ST1, ST3 and CP2 of the LP in this regard, the aims of which are set out above.

Special Protection Area

12. The Medway Estuary and Marshes SPA are designated because of their rare and vulnerable birds and regularly occurring migratory species. Due to the potential for recreational disturbance and without any mitigation in place, in combination with other plans and projects, there would be a likely significant effect on the interest features of the site from the proposed development.

13. The Conservation of Habitats and Species Regulations 2017 require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects. I am therefore required to undertake an AA.

14. The Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy recommends that the pressures from recreational activities can be appropriately mitigated via approaches which include a dog project, wardening and new access infrastructure and parking, amongst other things. Natural England has been consulted on this specific application and indicated that the SAMM will provide appropriate mitigation. I have taken these comments into account. As such, the mitigation measures proposed within it would be effective in this case.

15. I have clear evidence that a payment towards this strategic scheme has already been made. Consequently, I am satisfied that there would be adequate mitigation for the effect on the SPA and as such, I can be certain that there would be no adverse effect on the integrity of the SPA.

16. The development would therefore be in accordance with policies ST1, DM14 and DM28 of the LP. Together these require that development conserves biodiversity and natural environments with the highest level of protection for internationally designated sites. Albeit the lack of harm in this regard would be a neutral matter in any planning balance.

Other Matters

17. The surrounding area is characterised by clusters of built form within the countryside. The proposed development would introduce a new building which would be subordinate to the existing property and set away from the site boundaries. The pair of properties would be suitably spacious and appropriate to the existing character and appearance of this area. Any noise associated with a single new dwelling would not significantly differ from the existing residential use. Nevertheless, the lack of harm from these matters does not weigh in favour of the development.

18. A UU has been submitted which seeks to secure that the property would be self-build housing. Given the nature of this requirement, a planning obligation is an appropriate method of securing this type of housing. All persons with a registered interest in the land are now parties to the agreement and therefore it would be enforceable against them. The obligation secures that the development would be in accordance with the definition of self-build housing in the Self Build and Custom Housebuilding Act 2015, and first occupation would be by the applicant, with occupation for three years. It does not expressly state that the initial owner must have primary input into its final design and layout. However, it is stated on the self-

certified proforma, and this is an appeal made by an individual for a single dwelling. Along with the restrictions set out, I am satisfied that, based on the evidence in this case, the proposed property would be suitably secured as self-build housing. The biodiversity net gain condition would also not apply to certain types of self-build and custom build development.

19. The Council cannot demonstrate a 5 year supply of deliverable housing sites, and the main parties put to me that there is around a 4 year supply. Evidence has also been submitted by the appellant that there is a shortfall of 134 self-build plots in Swale, and there is little to dispute this figure by the Council. Particularly when considered together, there is a clear shortfall for the type of development proposed.

20. The written ministerial statement entitled 'Planning Reform: Next Phase' supports bringing forward small and medium sites and a diverse mix of homes. The National Planning Policy Framework: draft text for Consultation (2025) provides a list of exceptions to assess development outside settlements including with regard to previously developed land and criteria to be met in situations where there is an evidenced unmet need for development. However, it is in draft and therefore may be subject to change before the final document is published. As such, I afford it limited weight. Nonetheless, the proposed development would provide a new dwelling in this area and would make a contribution towards the undersupply of housing including custom and self-build housing. The development would also be on Brownfield land, albeit outside a settlement. Overall, the appeal scheme makes a valuable positive contribution to these multiple important matters.

Planning Balance

21. The Council does not have a five year housing land supply. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework 2024 (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.

22. The proposed development would provide one new self-build dwelling. This would make a small but positive contribution to the provision of housing, including towards these specific housing requirements, and would be an effective use of land in this regard. Given the shortfall in both these respects, these are important benefits which weigh in favour of the appeal scheme.

23. On the other hand, for the reasons above, harm is identified with respect to the location for housing with particular regard to the accessibility of the development by sustainable transport modes. There is therefore some conflict with the Framework's aim to direct development to sustainable locations and the relevant local plan policies. However, for the reasons set out above the harm associated with the appeal scheme would be modest.

24. Consequently, overall, the modest adverse impacts of the development would not significantly and demonstrably outweigh its important benefits. As a result, the application of paragraph 11 d) of the Framework indicates that permission should be granted, when assessed against the policies in the Framework taken as a whole having particular regard to key policies.

Conditions

25. Regard has been had to the planning conditions that have been suggested by the Council and they have been considered against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.

26. The standard implementation condition is attached and in the interests of certainty a condition to define the plans with which the scheme should accord. Details of hard and soft landscaping are required along with their implementation and replacement if needed, in the interests of the character and appearance of the area and biodiversity. The first two parts have been combined for brevity. However, reference to Fig Tree House has been removed as this does not relate to the scheme under consideration.

27. Details of sustainable construction techniques are required to promote water and energy efficiency, and details of ecological enhancements are also needed for biodiversity reasons. The provision and retention of parking spaces is necessary in the interests of highway safety, and cycle parking in the interests of sustainable transport. A condition to ensure the access adjacent to the highway is made of bound material is also required for highway safety purposes. However, the installation of electric vehicle charge points in new homes is covered by building regulations and as such a condition requiring this provision would not be necessary, and it has not been included. Hours of construction are controlled by other legislation and there is little before me to indicate that there are specific circumstances at this site, which would require further limitations.

28. During the course of this appeal a UU has been submitted which secures the property as self-build housing. This is an appropriate mechanism to ensure the house is built and occupied in this way. Therefore, the suggested condition relating to this matter is not included.

Conclusion

29. The proposal conflicts with the development plan as a whole, but in this case the provisions of the Framework indicate that planning permission should be granted otherwise than in accordance with the development plan.

30. For this reason, I conclude that the appeal should be allowed, subject to conditions.

H Miles

INSPECTOR

Schedule of Conditions

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

2) The development hereby approved shall be carried out in accordance with drawing title numbers: 22_147-PL-11 Site Location Plan, 22_147-PL-13 Proposed Floor Plan and Block Plan, 22_147-PL-14 Proposed East and North Elevations, 22_147-PL-15 Proposed West and South Elevations.

3) No development beyond the construction of foundations shall take place until details of sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated prior to the first occupation of the development.

4) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include boundary treatment and all other means of enclosure, hard surfacing details and materials including pathways, trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, and an implementation programme of works. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of the development or in accordance with the approved implementation programme.

5) Upon completion of the approved landscape works, if any trees or shrubs are removed, dying, severely damaged or becoming seriously diseased within five years of planting, details of the size, species and an implementation programme for replacement trees or shrubs shall be submitted to and approved in writing by the Local Planning Authority. Replacement planting shall be carried out in accordance with the approved details.

6) Prior to the first occupation of the development hereby approved, the vehicle parking spaces as shown on the approved plans shall be provided and permanently retained thereafter. The parking areas shall be kept available for such use at all times and shall not be used for any other purpose.

7) Prior to the first occupation of the development hereby approved, secure and covered cycle parking facilities for a minimum of two bicycles shall be provided and permanently retained as such thereafter.

8) Prior to the first occupation of the development hereby approved an ecological enhancement plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail what ecological enhancements will be incorporated in to the site. The ecological enhancement plan shall be carried out prior to the first occupation of the development and the enhancements shall be permanently retained as such thereafter.

9) The first 5 metres of the access from the edge of the highway shall be constructed using a bound surface material and shall be permanently retained as such thereafter.