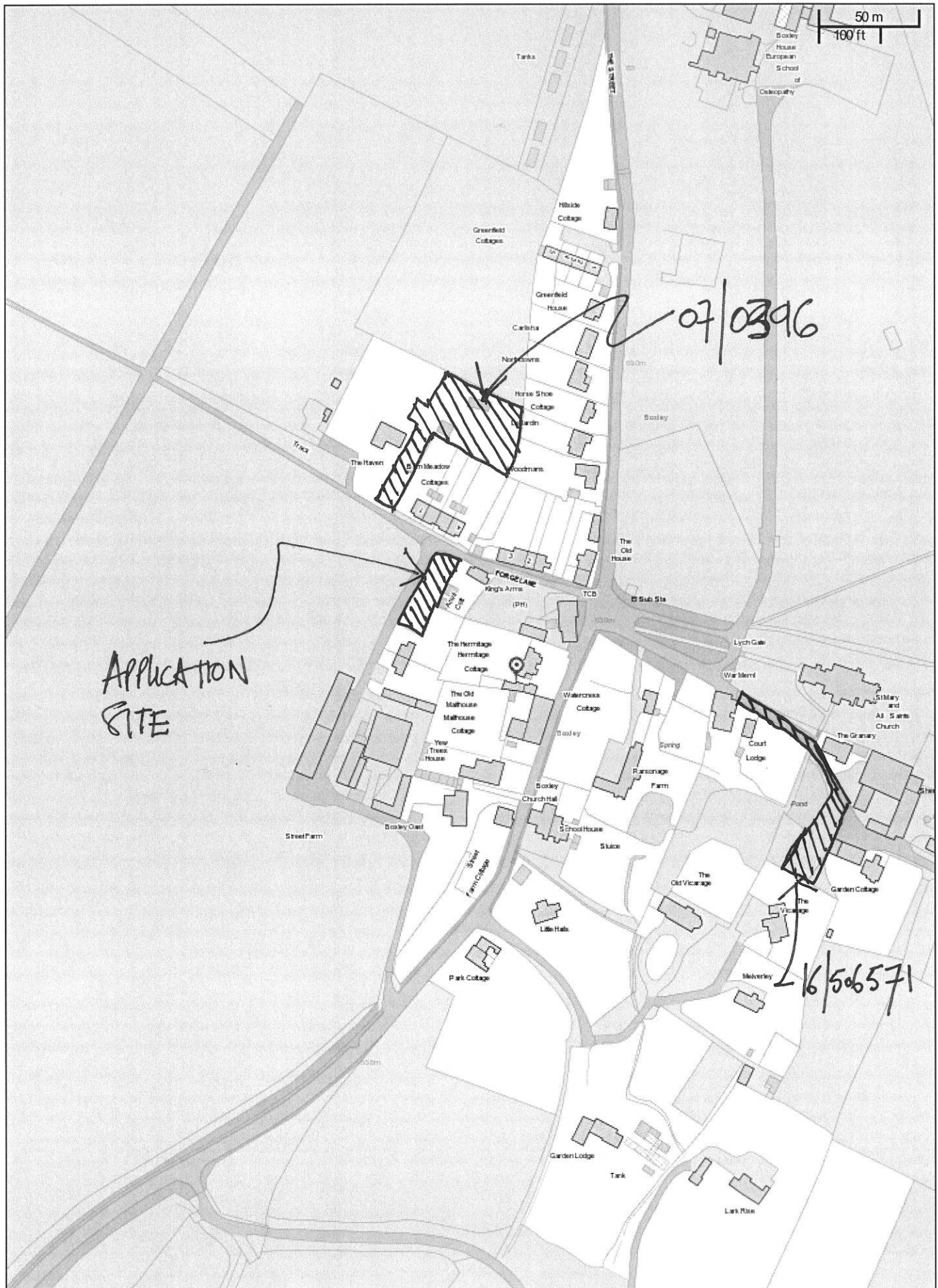


APPENDIX 1



Appeal Decision

Site visit made on 24 April 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/U2235/W/17/3169507

The Granary, Court Lodge Farm, The Street, Boxley, Kent ME14 3DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Graham Maskell against the decision of Maidstone Borough Council.
- The application Ref 16/506571/OUT, dated 19 September 2016, was refused by notice dated 15 November 2016.
- The development proposed is a single detached dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was submitted in outline with all matters reserved for later determination. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is whether the proposal would result in a sustainable form of development having regard to development plan policy and the character and appearance of the area, including the effect of the proposal on the Kent Downs Area of Outstanding Natural Beauty (AONB) and the North Downs Special Landscape Area (SLA).

Reasons

4. The appeal site comprises an area of grassland forming part of the grounds of The Granary, a farm building now converted to residential use situated amongst a group of buildings once associated with Court Lodge Farm. The extensive grounds of Court Lodge Farmhouse and The Old Vicarage lie to the west, those of The Vicarage to the south, a large cart shed used as garages to the east and The Granary to the north. The area, which is accessed via a private drive, also includes a large barn being converted to residential use, another house known as Garden Cottage and a number of utilitarian buildings comprising the old farmyard. The proposal is for a new house on the site within this scattered group of buildings.
5. The whole of Boxley and its surroundings lie within the Kent Downs AONB where the statutory purpose of designation is to conserve and enhance natural beauty. In addition to this, the village does not have a settlement boundary defined in the Maidstone Borough Wide Local Plan 2000 (MBWLP) and

consequently lies in the countryside for planning policy purposes. As such, Policy ENV28 applies, which seeks to resist development except in certain limited circumstances, none of which apply in this case¹. Policies ENV33 and ENV34 also apply to the Boxley area, which in turn seek to conserve the natural beauty of the landscape in the AONB and protect scenic quality, giving priority to the landscape over other planning concerns in the North Downs SLA. Finally, Policy ENV31 applies, which seeks to resist any expansion of the built up extent of any settlement in the Maidstone - Medway Strategic Gap, although in view of the surrounding development the Council do not argue any conflict with the aims of this policy.

6. The emerging Maidstone Borough Local Plan does not change the status of the appeal site. On the basis of the new plan the Council claim a five year supply of deliverable housing sites but the appellant questions this as the examination of the plan is not yet completed. If there is no five year supply, policies for the supply of housing should not be considered up to date and as a result Policies ENV28 and ENV34 of the MBWLP can only be given limited weight. However, for the reason set out in the conclusion, it is not necessary to establish if this is the case in order to determine this appeal.
7. Boxley has a church and public house but no other facilities, the nearest shops, primary school and other facilities being about 1.5 km away at Penenden Heath on the outskirts of Maidstone. Although within cycling distance these facilities are too far for convenient access by foot. There is a continuous footway along the road, but the route is quite busy and unlit at night, making walking an unattractive option, particularly at night and in winter. There is a bus stop just 100 m away with reasonably frequent services to Maidstone and Gillingham and also some local employment opportunities, but no mechanism is proposed to ensure the occupiers of the dwelling would work in the village.
8. A previous Inspector, when dismissing an appeal² for a single dwelling in Forge Lane, Boxley in 2008, noted that "whilst... a regular bus service runs through Boxley, there are no shops or services available within the immediate area apart from a public house and a church. Maidstone town centre is about 3 km to the south and, although it could be accessed by bus or cycle... future occupiers... would be heavily reliant upon the private motor car to service their day-to-day needs". Although further details of the available bus services and evidence of local employment is provided with this appeal I see no reason to disagree with this conclusion.
9. The appeal site already has the status of residential garden land and is surrounded on all sides by detached residential properties set in extensive grounds. The new detached dwelling would not therefore represent an encroachment into the open countryside. However, the surrounding properties are either converted farm buildings or well established detached houses. There are no examples of recently built dwellings in the vicinity, and as a result, even taking account of the garage/store building under construction, the area retains an attractive low density character of scattered properties, either dating back some time or converted vernacular buildings. This forms an important part of the character of this part of the village. In sharp contrast, the proposal, however well designed, would introduce a modern detached dwelling and associated signs of domestic occupation into this well established area,

¹ Contrary to the appellant's claim, the policy does not include an exception for infilling.

² APP/U2235/A/07/2054321

consolidating the existing built development to the detriment of its unspoilt semi-rural character.

10. The site lies immediately to the east of the Boxley Conservation Area but forms part of an area of scattered buildings rather than an undeveloped setting for the designated area. In addition, the site is fairly close to two listed buildings, the Grade I listed St Mary and All Saints Church and Grade II listed Court Lodge Farmhouse, but it is largely screened from the former by The Granary and separated from the latter by an outbuilding, gardens, tree screen and pond. A dwelling on the appeal site would not therefore have a significant effect on the setting of the conservation area or a material impact on the setting of the two listed buildings. As a result, the proposal would preserve the setting of these designated heritage assets, enabling them to be appreciated and understood as now. However, the fact that the dwelling would not harm the setting of specific historic assets does not mitigate the significant harm that would be caused to the character and appearance of the area as a whole.
11. Boxley is an attractive village situated on the south facing slopes below the ridge of the North Downs and the area of scattered ex-farm and other buildings to the south of the church forms an important part of its character. Increasing the concentration of residential development in this area would incrementally harm the overall character of the village and in turn erode the character of the Kent Downs AONB and North Downs SLA landscapes of which it forms part.
12. For these reasons the proposal would not result in a sustainable form of development having regard to development plan policy and would significantly harm the character and appearance of the area, including the Kent Downs AONB and the North Downs SLA. This would conflict with Policies ENV28, ENV33 and ENV34 of the MBWLP which seek to resist housing development outside defined settlement boundaries and protect the landscape of the AONB and SLA respectively.
13. The appellant argues that planning permission has been granted for similar residential developments in Bredhurst, Detling and Leeds. However, full details are not provided. In any event, due to their size and/or facilities these three villages have defined settlement boundaries in the MBWLP and therefore such examples would not amount to a precedent relevant to this appeal. No cases are provided of recent permissions in Boxley.

Conclusion

14. It is appreciated that the appellant is an active member of the community in Boxley and has contributed to village life by purchasing and safeguarding the Kings Arms public house and redeveloping the previously unattractive farmyard area. It would also provide an opportunity for the appellant's son and daughter to remain in the village. In any event the proposal would provide an additional windfall dwelling which would have social and economic benefits for the village and make a small but useful contribution towards housing land supply. It would utilise redundant garden land and be constructed to meet environmental standards. There is no objection from Boxley Parish Council or the Council's Conservation Officer. However, these arguments and benefits, even in combination, do not outweigh the significant harm that has been identified under the main issue.

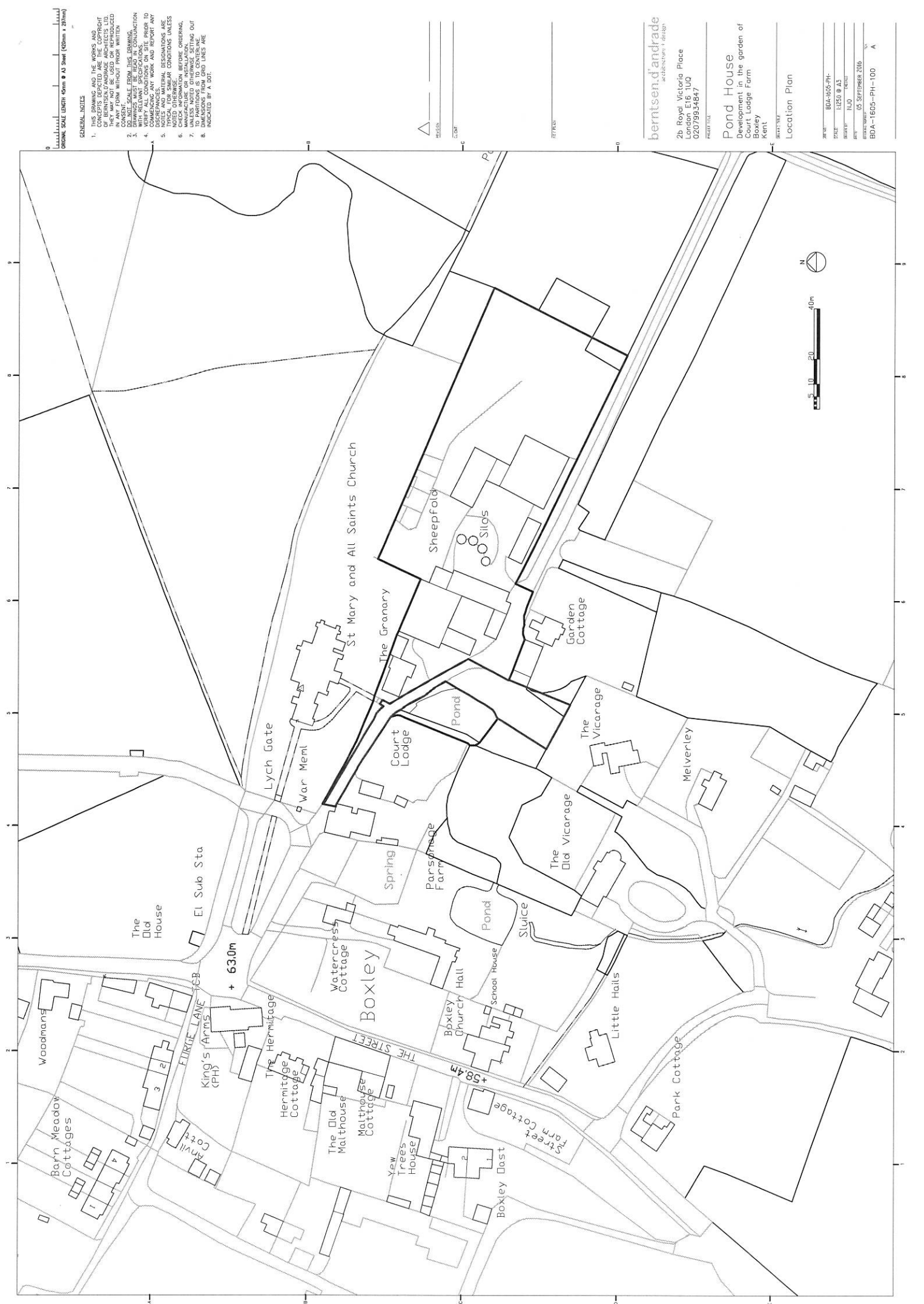
15. Because the site lies within the Kent Downs AONB, where paragraph 115 of the National Planning Policy Framework indicates that development should be restricted, the presumption in favour of sustainable development does not apply in this case even if there is no five year supply of housing land in the district³.

16. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

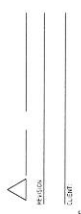
³ Footnote 9 to paragraph 14 of the NPPF.



ORIGINAL SCALE LENGTH 45mm @ A3 Sheet (420mm x 297mm)

GENERAL NOTES

1. THIS DRAWING AND THE WORKS AND CONCEPTS DEPICTED ARE THE COPYRIGHT OF BERNTSEN D'ANDRADE. THEY MAY NOT BE USED OR REPRODUCED IN ANY FORM WITHOUT PRIOR WRITTEN CONSENT.
2. DO NOT SCALE FROM THIS DRAWING.
3. THIS DRAWING IS A PRELIMINARY PRODUCTION AND IS NOT TO BE USED FOR CONSTRUCTION OF ANY KIND.
4. WITH RELEVANT SPECIFICATIONS, COMMENCE ANY WORK AND REPORT ANY DISCREPANCIES IMMEDIATELY TO THE ARCHITECT.
5. DO NOT SCALE FROM THIS DRAWING.
6. CHECK INFORMATION BEFORE ORDERING.
7. CHECK INFORMATION BEFORE ORDERING.
8. CHECK INFORMATION BEFORE ORDERING.



REFUSE

berntsen.d'andrade
architects & interior designers

2b Royal Victoria Place
London E16 1UQ
02079934847

PAGE 1 OF 1

Pond House
Development in the garden of
Court Lodge Farm
Boxley
Kent

LOCATION PLAN



PROJECT	BDA-1605-PH
SCALE	1:250 @ A3
DATE	14.0
DESIGNER	05 SEPTEMBER 2016
PROJECT NO.	BDA-1605-PH-100
ARCHITECT	A

APPENDIX 3
2

POST BOX 111
07 FEB 2008



Appeal Decision

Site visit made on 8 January 2008

by John Millard DipArch RIBA FCI Arb

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
0117 372 6372
email enquiries@pins.gov.uk
Decision date:
6 February 2008

Appeal Ref: APP/U2235/A/07/2054321

The Haven, Forge Lane, Boxley, Maidstone, Kent ME14 3DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr & Mrs L Angel against the decision of Maidstone Borough Council.
- The application (Ref: MA/07/0396) dated 19 February 2007 was refused by notice dated 30 March 2007.
- The development proposed is the erection of a single storey detached dwelling and detached garage to serve the existing dwelling (The existing garage is to remain to serve the new dwelling).

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues in this appeal are, firstly, the effect of the proposal on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB) and the North Downs Special Landscape Area (SLA) and, secondly, whether the proposal would represent a sustainable form of development.

Reasons

3. The application is in outline with all matters except access reserved for future consideration. Whilst the submitted plan numbered 432/03 indicates the location and possible footprint of the proposed dwelling, I shall consider this as indicative only.
4. The appeal site lies at the western edge of Boxley, within both the Kent Downs AONB and the North Downs SLA. Boxley is not defined in the adopted Maidstone Borough-Wide Local Plan 2000 (LP) as a settlement but comprises a cluster of buildings, mostly dwellings, within the countryside. Any development proposal must therefore be considered in relation to national and local countryside policies.
5. Key objectives of government policy for sustainable development in rural areas, as set out in Planning Policy Statement 7 (PPS7) are, among other things, to achieve good quality sustainable development that respects the intrinsic qualities of the countryside and the continued protection of the open countryside for the benefit of all, with the highest level of protection for our most valued landscapes and environmental resources.

6. These objectives are reflected in PPS1 – *Delivering Sustainable Development* and PPS3 – *Housing*, and in Policies EN1, EN4 and EN5 of the adopted Kent and Medway Structure Plan 2006 (SP) which seek to protect the countryside for its own sake, with special emphasis on AONBs and SLAs. Similar objectives are embodied in LP Policies ENV28, ENV31, ENV33 and ENV34. SP Policy HP5 indicates that new houses will not generally be permitted in the countryside except in the particular circumstances set out in the Policy. LP Policy H29 states that, outside defined urban areas and village boundaries, planning permission for minor extensions of small groups of houses will not be granted if the proposal would extend rural settlements into the open countryside.
7. The Haven is a modern detached chalet-style dwelling with a large detached double garage, situated on the western extremity of Boxley, and is surrounded on three sides by open countryside. Land to the north and west of the existing dwelling is also in the Appellants' ownership but is outside the curtilage of the house. The appeal site comprises a parcel of land to the north-east, but outside the curtilage of, the existing house. Its western and southern boundaries are defined by the backs of dwellings fronting The Street and Forge Lane. Directly to the north are the remains of an old orchard whilst, to the west, is the garden belonging to The Haven.
8. Access to the land would be by way of the existing gravel drive to The Haven and would, in my opinion, be satisfactory. However, the erection of a new dwelling on the land, and of a detached double garage behind the line of The Haven but within its curtilage, would reduce openness and result in unwarranted encroachment into undeveloped countryside. Notwithstanding the presence of a 'Polytunnel' on the site, and the screening from public view afforded by existing development in The Street and Forge Lane, it is clear from what I saw at the site visit that the land is essentially part of the countryside and has no meaningful relationship with the built development of Boxley.
9. The proposal before me would extend housing development into open countryside, and I conclude, on the first main issue, that material harm would be caused to the open rural character of the area, to the detriment of the character and appearance of the AONB and the SLA and in conflict with the objectives of both the development plan policies identified above and government advice in PPG7.
10. The Appellants have indicated that, if planning permission were to be granted, they would re-plant the orchard to the north of the site in order to enhance its contribution to the character of the area. I have before me a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 to that effect. Having carefully considered this proposal, I have come to the conclusion that, whilst reinstatement of this feature would be welcome, it would not be sufficient to overcome the harm that would be caused by extending development into presently undeveloped rural land.
11. Turning to the second main issue, the government lays great stress on the need to achieve high levels of sustainability in all housing development. Whilst I note that a regular bus service runs through Boxley, there are no shops or services available within the immediate area apart from a public house and a church. Maidstone town centre is about 3 Km to the south and, although it could be accessed by bus or cycle, it is my judgement that future

07 FEB 2008

4

occupiers of the development would be heavily reliant upon the private motor car to service their day-to-day needs.

12. A key objective of SP Policy SP1, with the strong support of government guidance in PPS1, PPS3, PPS7 and elsewhere, is to achieve a sustainable pattern and form of development. To this end, the Policy seeks, among other things, to reduce the need to travel, encourage the availability of a choice of transport, reduce growth in dependence on the road network and foster good accessibility to jobs and services for all sections of the community.
13. Because of its relatively remote location, the appeal proposal would not satisfy the sustainability criteria sought by Policy SP1 and I conclude, on the second main issue, that a new dwelling erected on this site would not represent a sustainable form of development and is, for this reason, unacceptable.
14. I have noted the Appellants' personal circumstances, and sympathise with their wish to build a smaller dwelling for themselves. However, planning decisions are made in the wider public interest, and personal circumstances will seldom outweigh more general planning considerations since the development is likely to remain long after the personal circumstances have ceased to be material.
15. I have considered all other matters raised, including the Appellants' reference to development in Styles Lane, but have found nothing that changes the balance of my decision that the appeal should be dismissed.

John G Millard

INSPECTOR

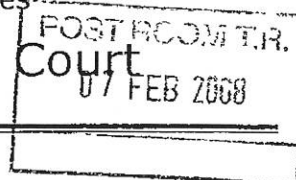


The Planning Inspectorate

An Executive Agency in the Department for Communities
& Local Government and the National Assembly for Wales

5
v5.3

Challenging the Decision in the High Court



Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

