
Appeal Decision

Site visit made on 23 August 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 19th October 2016

Appeal Ref: APP/J2210/W/16/3151265

Woodside House, London Road, Upper Harbledown, Kent CT2 9AX

- 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 planning permission.
 - The appeal is made by Mr L Lockhart against Canterbury City Council.
 - The application Ref CA/15/01863/FUL is dated 25 August 2015.
 - The development proposed is erection of dwelling.
-

Decision

1. The appeal is dismissed and planning permission is refused for the erection of a dwelling.

Procedural Matters and Main Issues

2. Woodside House is a grade II listed building and the proposed dwelling would be sited within the setting of this heritage asset. The Council determined the application without advertising in that regard as required by statutory provisions. For that reason I shall determine the appeal as being in respect of a failure to determine the application, which is the reason why the banner heading for this decision does not refer to the decision notice issued by the Council on 16 December 2015. The Council has now advertised the application and I have taken account of the comments received in response to that advertising.
 3. Although the appellant has advised that the boundary of the Upper Harbledown Conservation Area (the CA) is under review, at this time the appeal site is within the CA and I must therefore have regard to that fact. While the Council has not specifically considered the implications of the dwelling's siting within the CA, as it is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas, I shall consider this matter in my main issues.
 4. Having considered all the representations made the main issues are: the effect on the character and appearance of the area including the effect on the Blean Woods Special Landscape Area (the SLA), whether it would preserve or enhance the character or appearance of the CA; whether the appeal site would be a suitable site for a dwelling, having regard to its location and the proximity of services; and the effect of the development on protected species.
-

5. Reference has been made to alleged conflicts with various policies of the Canterbury District Local Plan Publication Draft of June 2014 (the emerging Local Plan). The examination of the emerging Local Plan is on-going and as such that plan remains subject to change. I therefore find that limited weight can be attached to the emerging Local Plan's policies, when regard is paid to paragraph 216 of the National Planning Policy Framework (the Framework), and as such I have treated them as not being determinative.

Reasons

Character and Appearance

6. The appeal site comprises a plot of land between Woodside House and 1 and 2 Woodside Cottages. The site extends rearwards from London Road to an area of woodland which forms part of Blean Woods, an area of ancient woodland. The site is within a CA that is characterised by a combination of sporadic and more intense residential development, together with tracts of open land of varying extent.
7. Blean Woods are identified as being within an SLA. At this point the SLA includes the non-wooded area between London Road and the woodland to the north. Policy R6 of the Canterbury District Local Plan First Review of 2006 (the Local Plan) indicates that within SLAs priority is to be given to '... the conservation and enhancement of the natural beauty of the landscape over other planning considerations, whilst having due regard to the economic and social wellbeing of the area ...'. There is disagreement as to whether the Council can demonstrate the availability of a five year supply of deliverable housing sites (HLS) in its area, which has implications for whether any policy affecting the supply of housing can be considered as being up to date, having regard to the Framework, most particularly paragraphs 14 and 49. Given Policy R6's provisions I consider that it is a policy that can affect where housing can be located and thus its supply.
8. The Council has submitted that it can demonstrate the availability of an HLS based upon two factors. The first of those factors being a reassessment of the supply position conducted in January 2016, as required by the Inspector examining the emerging Local Plan, and secondly the granting of three permissions for a total of 1,822 dwellings since the commencement of the emerging Local Plan's examination hearings¹.
9. The appellant has not disputed the Council's HLS evidence put before me, and I see no reason why I should not accept the Council's evidence on this matter. With the availability of an HLS having been demonstrated I am therefore content that Policy R6 can be considered as being up to date. I am also of the view that while Policy R6 predates the Framework it can be taken as being generally consistent with national policy, most particularly paragraphs 17 (fifth core planning principle), 109 and 113 of the Framework, in that it seeks to safeguard the appearance of a valued landscape while allowing for balancing to be undertaken between any visual (environmental) harm and any social and/or economic benefits arising from new development.
10. The dwelling would be situated within a part of Upper Harbledown which is characterised by a very loose knit pattern of development on both sides of

¹ Paragraph 3.1 of the Council's statement of case

London Road, with built development being the general exception, in contrast to the pattern of development found to the east of the A2 overbridge. The site is currently being used for the siting of a static caravan that is occupied by a family member, while a new house a little to the north west of Woodside House is completed, and the storage of some construction materials and timber sheds, the latter being stored in association with the operation of the adjoining shed business (Lockhart Sheds). The Council has submitted that the site's current uses do not benefit from planning permission and there is no conclusive evidence² before me confirming what the appeal site's planning status is.

11. Although the site has fencing along its road frontage and notwithstanding its current use, this site has the appearance of being an essentially open plot that is in the countryside, rather than being within the readily identifiable built up part of the hamlet. The site forms part of the transitional zone between London Road and the wooded part of the SLA and it thus in part creates the setting to the woodland. The site therefore helps to provide some important visual relief within this part of the SLA to the somewhat sprawling and more intensely developed adjoining shed business site. Even though the proportions of the house would be relatively modest it would diminish the views of the woodland that are possible from London Road and would therefore detract from the SLA's appearance.
12. For the reasons given above I conclude that the development would be harmful to the character and appearance of the SLA. As such there would be conflict with Policy R6 of the Local Plan and paragraphs 17 and 109 of the Framework in that the development would not give rise to conservation and enhancement of the area's natural beauty.
13. The dwelling would be sited in one of the breaks between road frontage development that characterise this CA. Although the dwelling would be quite modest in scale, I consider its presence would nevertheless erode the space between Woodside House and 1 and 2 Woodside Cottages, taking account of the fact that both cottages have been extended and the extent of the shed business. I therefore find that the appeal development would neither preserve nor enhance the character or appearance of the CA. I recognise that my finding in this respect is different to that of the Inspector who determined the previous appeal concerning this site³. However, I am of the opinion that the breaks between built development on the northern side of London Road are as much a characteristic of this CA as they are of the SLA and accordingly having found that the erosion of one of these spaces would cause harm to the SLA then it equally follows that there would be harm to the CA.
14. As this development with neither preserve nor enhance the character or appearance of the CA, there would be conflict with Policy BE7 of the Local Plan, insofar as the landscape of the CA would not be protected. With regard to the provisions of the Framework, I consider the harm to the CA would be less than substantial when considered within the context of paragraphs 133 and 134. That being said I consider that the benefit of providing an additional dwelling would be outweighed by the harm to the CA that would arise.

² For example a Lawful Development Certificate

³ APP/J2210/A/12/2174693

15. The development would form part of the setting of the listed Woodside House, a countryside dwelling, which as originally built, would have had a quite extensive area of undeveloped land around it. The land surrounding the listed building is being used quite intensively in connection with the operation of the shed business, with the result that the undeveloped extent of this building's setting has become quite limited. Consequently the significance of the listed building's setting has been reduced. The new dwelling would be quite modest and when that is taken with its siting relative to Woodside House, I find that the development would preserve the listed building's setting.

Whether a suitable location for a dwelling

16. The site lies towards the western extremity of Upper Harbledown, a hamlet without a defined built confines boundary for the purposes of the Local Plan. On the basis of my observations of the sporadic development in the area, I consider that this site is within the countryside. Upper Harbledown is essentially a residential hamlet, with there being very few employment opportunities (with the adjoining shed business being the most notable of those) or community facilities being available within it.
17. No extant Local Plan policy relating to development proposals in the countryside has been drawn to my attention and I therefore consider that paragraph 55 of the Framework is the most relevant policy to be taken account of in assessing whether this would be a suitable location for a dwelling.
18. Paragraph 55 promotes sustainable development in rural areas and advises that housing should be located where it will enhance or maintain vitality in rural communities, with development in one village in some instances having the potential to support services in others nearby. Paragraph 55 further advises that isolated homes in the countryside should be avoided unless special circumstances apply, such as providing accommodation for rural workers, making use of heritage assets, re-using redundant or disused buildings or a scheme would be of exceptional or innovative design.
19. The pattern of development to the west of the A2 overbridge is so dispersed that I find that this development would not constitute infilling within the normally accepted sense. I am therefore inclined to view this development as one being for an isolated home in the countryside.
20. Although Upper Harbledown is on a bus route, running between Canterbury and Faversham, with a service frequency ranging between half and one hour on week days, it would be likely that there would be a high level of private vehicle dependency amongst the occupiers of this dwelling. This is because there would be ready access to the A2 and A2050, Canterbury is nearby (around 4km away) and the other settlements in the vicinity of the site that are accessible on foot or by bicycle do not offer the range of facilities that would counter Canterbury's draw. I also consider the very modest nature of this proposal would mean that it would do little to enhance or maintain the vitality of either Upper Harbledown or the other settlements in the area, in relation to supporting local services and businesses.

21. Reference has been made to an appeal decision concerning a development of seven dwellings allowed in Thurlton, Norfolk⁴. However, the circumstances of that case are not comparable in that Thurlton is described as a village and that site is close to a school, a post office, public house, village hall and other recently constructed dwellings. I therefore find that the Thurlton decision has little bearing on my consideration of the proposal. The Langley, Maidstone appeal decision⁵ drawn to my attention is also not comparable in locational terms, because while reference is made to that site being within a loose-knit group of properties, there are also some employment opportunities and some limited community facilities within the vicinity of that site.
22. In terms of the special circumstances referred to in paragraph 55 of the Framework, there is no identified need to accommodate rural workers, nor would this proposal result in the reuse of a heritage asset or any other building. While the dwelling's design of itself would be unobjectionable, I consider that it would neither be of exceptional quality nor particularly innovative. Accordingly I find there to be no special circumstances weighing in favour of this proposal for the purposes of paragraph 55. Reference has been made to the redevelopment scheme at the nearby former garden centre site, however, it involves the redevelopment of previously developed land that is outside the SLA.
23. For the reasons given above I conclude that this would not be a suitable location for a dwelling, given its isolation, and that there would be conflict with paragraph 55 of the Framework.

Protected Species

24. A habitat and protected species scoping assessment report of February 2016 (the ecological report) has been submitted with the appeal and this report concludes that the habitat on this site is of low biological diversity value and does not have the potential to support protected species. Recommendations are, however, made about the use of sensitive lighting to safeguard bats that might be frequenting the adjoining woodland and the avoidance of disturbance to any nesting birds during the construction period. The ecological report also concludes that the development would be sufficiently distant from sites subject to National and European designations for it to have no significant effect upon those areas.
25. Notwithstanding the conclusions of the ecology report no specialist advice has been submitted by the Council to counter what has been said in the ecological report. While that report is brief there is nothing to suggest that its findings are incorrect
26. On the basis of the available evidence it appears to me that this development would have no adverse effect upon protected species. I therefore conclude that there would be no harmful effect upon protected species and that there would be no conflict with Policies NE1 and NE3 of the Local Plan. That is because the site has limited potential to be supporting protected species and appropriate mitigation could be secured by the imposition of planning conditions and biodiversity enhancements within the SLA, matters that could be incorporated into the development's landscaping scheme.

⁴ APP/L2630/W/15/3070065

⁵ APP/U2235/A/14/2215657

Other Matters

27. The development would make a small contribution to the supply of housing and some contribution to the local economy in terms of employment opportunities during the construction phase and the occupiers' expenditure on goods and services in the neighbourhood. However, the public benefits arising from those contributions to the social and economic dimensions of sustainable development would be very modest and I find them to be outweighed by the visual harm to the area that would arise and the unsuitable nature of this as a location for a dwelling. The nature of the harm that I have identified means that this proposal would be an unsustainable form of development when the Framework is read in the round, as required by paragraph 6.
28. Concern has been raised about the possibility of there being effects upon local land drainage. As the appeal is to be dismissed for other reasons a detailed assessment of this matter is not required.

Conclusions

29. While the development would have no adverse effect on protected species or the setting of the listed building, this would be an unsuitable location for a dwelling given its location and the harm to the SLA and the CA. That would be harm that gives rise to conflict with the Local Plan and the Framework. I therefore conclude that appeal should be dismissed.

Grahame Gould

INSPECTOR