

Appeal Decision

Site visit made on 19 October 2016

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 11 November 2016

Appeal Ref: APP/J2210/W/16/3154561

Land adjacent to 4 Shrub Hill Road, Chestfield, Kent CT5 3NZ

- 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 Mr S and N Griffiths against the decision of Canterbury City Council.
 - The application Ref CA/16/00722/FUL, dated 24 March 2016, was refused by notice dated 19 May 2016.
 - The development proposed is two detached dwellings.
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Decision

1. This appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area with particular reference to the Special Landscape Area (the SLA); and
 - the effect of the proposal on the North Kent Marshes and the Thanet Coast and Sandwich Bay Special Protection Areas (the SPAs).

Reasons

Policy background

3. The development plan for the area consists of the Canterbury District Local Plan First Review (2006) (the Local Plan). The Council is in the process of producing a new Canterbury District Local Plan (the emerging Local Plan) and a publication draft was issued in 2014. This is currently the subject of a public examination. However, as the policies are currently being tested I can only afford them very limited weight.
4. The National Planning Policy Framework (the Framework) aims to boost significantly the supply of housing. To this end local planning authorities are required to identify a 5 year supply of deliverable sites for housing. Although the Council consider that they can demonstrate a 5 year housing land supply the appellant disagrees referring to an appeal decision¹ and evidence provided recently as part of the Local Plan examination. The appellant considers that as a consequence paragraph 14 of the Framework is engaged.

¹ APP/J2201/W/15/3140462

5. As I have no evidence before me regarding the 5 year housing land supply and how it was calculated I am not in a position to determine whether or not a supply does or does not exist. However, the Framework² advocates that the closer the policies in a plan are to the policies within the Framework the greater the weight that they may be given. The policies relevant to the determination of this appeal are policies H1, BE1, NE1, R6 and C1 of the Local Plan.
6. Policies BE1 and R6 require development to be of a high quality design and have regard to the landscape character of the locality and policy NE1 aims to protect the SPAs and protected species. These policies are not based on housing land supply and are consistent with the advice contained within the Framework and as a result they can be given full weight.
7. Policy H1 focuses new housing on allocated sites or previously developed land within urban areas. Although I agree that the housing figures on which this policy was originally based are not up to date, a sequential approach to focusing new housing in existing urban areas and prioritising the use of previously developed land, which is the aim of this policy, is consistent with the aims of sustainable development which the framework promotes and as a result I consider that this policy carries some weight.
8. Policy C1 requires new development to be located so as to minimise the need to travel which is consistent with the aims of sustainable development promoted by the Framework and as a result it can be given full weight.

Character and Appearance

9. The appeal site consists of a large irregular shaped piece of managed grassland located adjacent to No 4 Shrub Hill Road. The boundary for the Chestfield Conservation Area runs along the northern edge of the site with No 4 falling within the Conservation Area. The site lies outside of the settlement boundary for Chestfield but falls within a SLA as designated by the Local Plan.
10. I agree with the appellant that, with the construction of the Thanet Way, the character of the site will have changed since it was originally designated as an SLA. However, from my site visit I observed that the site retains a pleasant rural aspect. To a large extent the sites value appears to stem from the fact that it is open and undeveloped and provides a green edge to the village and a rural outlook for people moving in and around the local area. From the information submitted with the appeal it is these aspects that are clearly appreciated and valued by those who live in and around the area.
11. I also agree that with the appellant that due to the Thanet Way and the resulting changes to typography the site is not viewed in the context of the wider countryside. However, because of its open nature and the mature vegetation around the boundary that, with the exception of No 4, only provides glimpsed views of surrounding properties I disagree that it appears as part of the urban area but instead consider that it contributes positively to the rural setting of this edge of Chesterfield village.
12. The proposal is for two substantial houses of a contemporary design. It is clear from the evidence that the proposal has been the result of a detailed design process and that the units have been carefully designed to reduce the need for energy and to be very energy efficient.

² Paragraph 215 of the National Planning Policy Framework (2012)

13. Whilst the use of sedum roofs, a palette of natural materials and sensitive landscaping have attempted to minimise the impact of the proposal I consider that the use of a single storey design would result in buildings of a considerable footprint, bulk and mass. Furthermore, their position deep within the site would necessitate a substantial quantum of supporting infrastructure and as a consequence an extensive proportion of the plot would need to be developed.
14. The predominant views are down into the site from the elevated public footpath on the eastern boundary. Even with the existing and proposed boundary planting, I consider that the sizeable slate roofs and large expanses of photovoltaic panels would be visually incongruous and would appear as a dominant design feature that neither reflects or respects the rural character and appearance of the site, the surrounding area or the SLA.
15. Whilst the Framework³ advocates that planning should not impose architectural styles, stifle innovation, originality and initiative and planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape⁴. It also requires that development should secure high quality design, respond to local character, reflect the identity of local surroundings and materials, add to the overall quality of an area⁵ and in the case of a building with high levels of sustainability mitigate any impact through good design⁶. With regards to new homes in the countryside the Framework advocates that design should be of either an exceptional quality or innovative nature⁷.
16. I agree with the Council that modernist architecture in itself is not innovative. Whilst there is much to commend the design due to their prominent roofs, substantial footprint and resulting mass and bulk, even with the mitigation of the proposed landscaping, for the reasons I have already outlined I consider that the new units would be visually prominent and appear out of character. Furthermore, whilst a number of sustainability measures are proposed I consider them to be fairly standard for a house of this type and would therefore not deem them to be particularly innovative. As a result, when balanced against the harm to the character and appearance of the surrounding area I consider that the exceptions set out in the Framework would not apply.
17. Whilst I agree that the proposal would boost the supply of housing this benefit would be modest and is in any event significantly and demonstrably outweighed by the harm to the character and appearance of the area that I have identified above. As a result I do not consider that, if there is one, a lack of a 5 year housing land supply would have lead me to a different conclusion.
18. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. The construction of the dwellings and the additional households that would occupy the new units would provide limited social and economic benefits and would make a small contribution to housing supply. However, for the reasons I have outlined earlier there would be harm to the environment as the proposal would affect the character and appearance of the area by introducing development into what is effectively a greenfield site. This would have the effect of

³ Paragraph 60 of the National Planning Policy Framework (2012)

⁴ Paragraph 65 of the National Planning Policy Framework (2012)

⁵ Paragraphs 17 and 58 of the National Planning Policy Framework (2012)

⁶ Paragraph 65 of the National Planning Policy Framework (2012)

⁷ Paragraph 55 of the National Planning Policy Framework (2012)

spreading the village further east and urbanising this area of countryside which would be contrary to the Framework and policies H1, C1, BE1 and R6 of the Local Plan. The material circumstances to justify a decision other than in accordance with policy have not been demonstrated and the modest benefits that the proposal would deliver would not outweigh the harm. Consequently, the proposal would not represent sustainable development.

The effect of the proposal on the North Kent Marshes and the Thanet Coast and Sandwich Bay Special Protection Areas (the SPA)

19. The appellant has submitted an executed Unilateral Undertaking concerning the measures to mitigate the recreational pressure on the North Kent Marshes and the Thanet Coast and Sandwich Bay Special Protection Areas. The Council have indicated that they consider that the proposal would now provide the appropriate mitigation.
20. I have considered the Council's Strategic Access Management and Monitoring Plans (the Thanet Coast SAMM) and am satisfied that the Unilateral Undertaking accords with the relevant policies and tests in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. I consider that in accordance with the Thanet Coast SAMM, the amounts proposed are directly related to the development and fairly and reasonably related in scale and kind. Consequently I consider the effect of the proposal on the SPAs would be mitigated and as a result the proposal would accord with Local Plan policies BE1 and NE1.

Other matters

21. The appellant advocates that the site, which is accessed via a gate in the boundary wall, forms part of the garden of 4 Shrub Hill Road. Whilst I accept that the appellant owns the land and has created a limited link to their garden I observed at my site visit that the site maintains the characteristics of a field and there is no evidence before me that substantially demonstrates that a material change of use to a domestic garden has occurred. Furthermore, as the Framework specifically excludes private residential gardens from the definition of previously developed land even if the appellant could satisfactorily demonstrate that the site did form part of the garden of No 4 it would not constitute a brownfield site for the purposes of planning.
22. The site is adjacent to the Chestfield Conservation Area. The proposal would affect the character and appearance of the area by virtue of introducing housing and its related infrastructure into what is a greenfield site. However, due to the existing mature planting along the majority of the Conservation Area boundary views of the proposal would be very limited and as a result I consider, subject to the planting being retained, that the proposal would not harm the character and appearance of views into or out of the Chestfield Conservation Area in accordance with section 12 of the Framework.
23. The Council consider that the proposal would comply with the relevant standards and has been designed in such a way that the living conditions of the occupants of neighbouring properties would not be adversely affected and I have no reason to disagree with this position.
24. Concerns have been raised regarding potential damage to Shrub Hill Road particularly during construction. However, as this is a private road this would

be a civil matter between the owners of the site and the owners of the road and is therefore not material to the determination of this appeal.

Conclusion

25. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jo Dowling

INSPECTOR