
Appeal Decision

Site visit made on 1 December 2016

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 28 December 2016

Appeal Ref: APP/J2210/W/16/3156765

Land opposite Northwood Cottage, Bullockstone Road, Herne Bay, Kent

- 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 & Mrs Robert & Victoria Farbrace against the decision of Canterbury City Council.
 - The application Ref 16/00232, dated 28 January 2016, was refused by notice dated 13 July 2016.
 - The development proposed is erection of a dwelling, enlargement of existing driveway and new boundary wall.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the emerging Canterbury District Local Plan (emerging LP) has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with National Planning Policy Framework (the Framework). Consequently, I am only able to give it limited weight in my decision.
3. The Council confirm that contributions are required from all development proposals within the zones of influence of the North Kent Marshes Special Protection Area (SPA) and The Thanet Coast and Sandwich Bay SPA. The contributions would be put toward the Strategic Access Management Mitigation (SAMM) Plan and the measures contained within the SAMM are not infrastructure projects, so do not fall to be considered under the Community Infrastructure Levy Regulations pooling restrictions. Whilst these are tariff-style contributions, Planning Practice Guidance regarding the Written Ministerial Statement of 28 November 2014 confirms that these may be sought to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of EU Directive requirements¹, such as the Habitats Directive, under which SPAs are designated. Consequently, I have taken the submitted Unilateral Undertaking relating to financial contributions toward the SAMMs into account.

¹ PPG reference ID: 23b-020-20160519

Main Issues

4. The main issues are:

- whether the proposal would constitute sustainable development, with particular reference to the character and appearance of the rural area;
- whether the proposed dwelling would affect biodiversity in the area; and
- the effect of the proposed dwelling on highway safety with particular regard to the visibility splays proposed.

Reasons

5. The Framework sets out a presumption in favour of sustainable development, defined as development in accordance with the Framework as a whole. This includes approving development proposals that accord with the development plan, including the Canterbury District Local Plan (LP), without delay. Sustainable development has three dimensions that must be considered together, being economic, social and environmental.

Character and appearance

6. Bullockstone Road extends into Herne Bay from the surrounding countryside. The land opposite Northwood Cottage currently comprises agricultural fields and paddocks, and golf course, with Northwood Cottage marking the start of built development within Herne Bay on that side of Bullockstone Road. The site comprises a paddock that is used for grazing sheep and horses by the owners, and it is proposed to develop it to provide a single dwelling designed to reflect the appearance of other dwellings in the locality, with much of the site remaining open for grazing.
7. The proposed development would extend built development beyond the development boundary of Herne Bay in a particularly prominent location on the approach into the town. As such, the proposed development would encroach into what is, at present, the open countryside and appear incongruous within that setting.
8. I understand that planning permission has been granted for a substantial mixed use development including 572 dwellings on the surrounding former golf course and farmland behind the site of the proposed dwelling under reference CA/15/00844. A further application to this side of Bullockstone Road and extending over Thanet Way was under consideration at the time the appeal was made under reference CA/15/02782 for up to 800 dwellings, but no decision has been drawn to my attention.
9. The land between the existing built up area and Thanet Way on both sides of Bullockstone Road is proposed to be included within the urban boundary of Herne Bay in the emerging LP, with the site of CA/15/00844 proposed to be allocated for development, along with the land between Northwood Cottage and Thanet Way. I understand the remainder of the land on the opposite side of Bullockstone Road from Northwood Cottage is intended to be protected as open space, including with the appeal site and the site of planning application CA/15/02782 as far as Thanet Way, under Policy OS9 of the emerging LP. However, given the stage of preparation of the emerging LP as set out in the preliminary matters, I am only able to give limited weight to these matters.

10. I accept that much of the land surrounding the site may be developed in the next few years, but at present it is a prominent site within the countryside on the approach to Herne Bay along Bullockstone Road. I need to assess the proposed development in its present context and against currently adopted policies and, on that basis, the loss of visual openness of the site would affect the character and appearance of this approach into Herne Bay. As such, the development of this site would harm the character and appearance of the rural area, contrary to Policies H1 and BE1 of the LP and the Framework that require development to have regard to the landscape character and the visual impact of development on the surrounding area.

Biodiversity

11. Given that the site is currently grazed by sheep and horses, it has been suggested that there is limited potential ecological interest other than within the boundary features. The appellants suggest that they would maintain hedgerows and planting around the boundaries should the appeal be allowed and the proposed dwelling is located within the central portion of the site. However, there is limited information provided as to how this would take place and how any effects on habitats along the site boundaries would be adequately controlled.
12. The Framework and Circular 06/2005: Biodiversity and Geological Conservation confirm that surveys should be carried out prior to planning permission being granted where there is a reasonable likelihood of a protected species being present and affected.
13. Should protected species be found on or near the site, it is possible that the development could not go ahead in its proposed form. On that basis, this issue could not be appropriately dealt with by condition.
14. On that basis, without an appropriate ecological survey of the site, insufficient information has been provided to conclude whether the proposed development would comply with Policy NE1 of the LP, the Framework and Circular 06/2005. These policies seek to ensure protected species are not present on the site, or that appropriate mitigation would be provided to protect those species and their habitats. In the absence of that information, I have to conclude that the development would affect ecology and biodiversity in the area.

Highway safety

15. The proposal includes a revised access to the site from Bullockstone Road and the development would result in an increase in traffic utilising that access. The Council are concerned that visibility from the access may be restricted and require further information as to the availability of visibility splays measuring 2.4m by 43m from the access.
16. The site is located on a straight section of road and close to the outside of a bend and space would be provided for parking and turning on site. However, there is planting close to the edge of the road and it is not clear how visibility splays would be achieved to ensure safe access to and from the site.
17. As a result, I conclude that safe and suitable access cannot be provided without provision of the visibility splays. As such, the proposed development would be contrary to Policy BE1 of the LP that seeks to ensure development is accessible and provides safe movement within the proposed development.

Other matters

18. I note that the proposed dwelling has been designed to limit its impact on the environment and to be safe and secure, including a wall and gates on the front boundary of the site. This is a sustainable location close to services and facilities on the edge of the town of Herne Bay. However, none of these matters would outweigh the harm that I have identified with regard to the effect on the rural character of the area, to ecology and biodiversity and highway safety.
19. I note that an additional dwelling has been granted adjacent to 9 The Fairway, but limited details of this development have been provided. However, this would appear to be within the urban area such that it would have a different effect on the character and appearance of the surrounding area.

Conclusion

20. There would be limited economic benefits during the construction of the development and future residents would support local services. The provision of a single dwelling would have a minor positive social impact in contributing toward local housing needs. However, the environmental impact of the development on the character and appearance of the rural area, on biodiversity and on highway safety would significantly and demonstrably outweigh those limited social and economic benefits. As such, the proposal does not constitute sustainable development when considered against policies in the Framework taken as a whole. As a result, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR