

Appeal Decisions

Site visit made on 21 December 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/J2210/W/16/3156048

91 Mill Lane, South of Thanet Way, Herne CT6 7JJ

- 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 Reardon against the decision of Canterbury City Council.
 - The application Ref CA/15/02708/FUL, dated 1 December 2015, was refused by notice dated 19 February 2016.
 - The development proposed is the demolition of existing bungalow and construction of two detached properties.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties both refer to an earlier appeal for a similar development on this site in their evidence. However, no details of this appeal or detailed comments were provided by either main party. Having identified an appeal decision¹ at the same address, I asked the parties whether they had any additional comments in terms of any implications for this appeal. Neither party responded in the timescale given. However, I am satisfied that this appeal is the one referred to and I have had regard to this in my decision.
3. Planning permission also already exists for a single replacement dwelling on the site. Early demolition works to the existing bungalow were underway at the time of my visit.

Main Issues

4. The main issues are the effect of the development on:
 - (a) The Thanet Coast and Sandwich Bay Special Protection Area (TCSBSPA) and Ramsar Site; and
 - (b) The character and appearance of the area.

Reasons

SPA and Ramsar site

5. The appeal site lies around 2km south of the Thanet Coast and Sandwich Bay SPA and Ramsar site. This is also designated as the Thanet Coast Site of

¹ Appeal reference: APP/J2210/W/15/3128982

Special Scientific Interest (SSSI). SPAs are afforded protection under the Conservation of Habitats and Species Regulations 2010 (Habitat Regulations).

6. The appellant has questioned whether the development would directly affect the Thanet Coast owing to its distance from the appeal site. However, Natural England have identified the site as being within the area of influence for the SPA. The Council have indicated that Natural England's advice is that all development from a single dwelling upwards could both individually and cumulatively lead to an increased use of these protected sites for recreation and this is likely to have a significant effect on the site if not mitigated. The occupiers of the dwellings would, therefore, have the potential to visit the SPA and their activities could cause disturbance to the important bird species identified. The net increase of one dwelling on the site would see an increase in risk to these habitats. There is nothing before me to suggest that I should not accept this evidence and take account of the potential harm. I am satisfied, therefore, that there would be a realistic risk to the SPA as a result of this potential activity.
7. I note that Natural England did not object to the development, subject to the appropriate financial contributions being made toward the TCSBSPA Strategic Management and Monitoring (SAMM) plan. The appellant has suggested that the Council did not request a financial contribution during the application process. Notwithstanding this, they have indicated a willingness to enter into a Unilateral Undertaking (UU) to make the appropriate contribution. However, an undertaking was not submitted with the appeal and I do not consider that a planning condition would meet the requirements set out in National Planning Policy Guidance² (PPG). The development before me is neither complex nor strategically important, so the circumstances are not exceptional. Accordingly, a condition would not be appropriate.
8. Without a mechanism for securing the contributions, or any other form of mitigation being put to me, I cannot be satisfied that the development would provide adequate measures to mitigate the potential adverse effects on the SPA. The Council have referred to conflict with Canterbury District Local Plan³ (CDLP) policy NE1 in their decision, but this has not been provided. However, I am satisfied that there would be conflict with and paragraphs 17, 109 and 118 of the National Planning Policy Framework (the Framework) which seek to ensure that development that could have a significant impact on protected sites is not permitted where adequate mitigation is not provided.
9. The emerging Canterbury District Local Plan Publication Draft (CDLPPD) (2014) policies SP1, SP7, LB5 and LB9 have also been quoted by the Council. These reflect the statutory requirements of the Habitats Regulations and have a high degree of consistency with the Framework. As such, I have given these policies some weight in my decision. There would, therefore, be conflict with these policies which seek, amongst other things, to resist development that may have an adverse effect on sites protected by the Habitats Regulations.
10. The Council have referred to conflict with CDLP policy BE1 in relation to this issue in the officer report. As this policy relates to the design of development, I do not see it has significant relevance to the mitigation of any impact to the SPAs.

² See paragraph 010 Reference ID: 21a-010-20140306

³ Canterbury District Local Plan – Adopted July 2006

Character and appearance

11. The appeal site consists of a detached chalet bungalow on a large corner plot on the junction of Mill Lane and Broomfield Road. The existing bungalow is set well back from the roadside and there is a significant amount of garden space to the front of the dwelling. This provides a relatively open aspect to the corner. The site is located in a predominantly residential area where there is a mixture of architectural styles. The dwellings immediately to the side of the site are generally bungalows or chalet bungalows.
12. I have not been provided with full details of the previous proposal for two dwellings or the proposal for a single dwelling that was granted. However, the submitted plans seek to illustrate the amendments to the proposal that have been made to try and resolve both the Council's and previous Inspector's concerns.
13. The increase in scale and height of development on the site, and the bringing forward of buildings closer to the roadside, would inevitably lead to a more prominent built form on this corner than currently exists. The design of the new dwellings would also differ to an extent from those in the immediate vicinity of the site, but the wider area exhibits a greater variety of architectural styles. There are 1.5 and 2 storey dwellings in the area, including directly opposite the site on School Lane. In this regard, I have noted the previous Inspector's concerns about the relationship between the development and the predominant style of the dwellings in the immediate vicinity of the site.
14. The appellant has sought to address these concerns. The ridge heights of both dwellings have been reduced such that the buildings would appear no taller than those on either side. While this would be largely as a result of changing ground levels, it would still help to minimise the impact on local character and reduce the contrast between the development and neighbouring housing. This would also help to minimise the change in the prominence of development on the corner compared to the existing street scene.
15. I also consider that an effort has been made to reflect the character of nearby dwellings in the design of the development. The low eaves heights, roof pitch, use of dormer windows and roof lights within the roof slopes and use of gable features all serve to help minimise the contrast with neighbouring properties. The designs themselves would be entirely in-keeping with what is essentially a mixed residential area. The development would create an element of variety in the street scene, but in my view the designs would not be so jarring or incongruous in character to be harmful to the appearance of the street.
16. The plans illustrate that the scale of the dwelling of Plot 2 has been reduced significantly, particularly in relation to Broomfield Road where the front building line has been set back by some distance. Judging from the outline shown on the plans, the scale and bulk of the roof profile has been significantly reduced, which would help to reduce the prominence of the building and be more characteristic of the area in terms of its overall scale. As well as the height of the dwelling on Plot 1 being reduced, the plans indicate an attempt to reduce the overall mass and bulk of the building.
17. The rear amenity space of the existing bungalow is very small. In order to create a reasonable amount of rear garden space, I agree that the dwellings would need to come forward closer to the road. While the level of openness

that currently exists would be reduced as a result of this, the proposed building line would be consistent with other housing on this side of Broomfield Road and Mill Lane and would not appear incongruous. I also find that these changes adequately address the concerns expressed by the previous Inspector in relation to the dwelling on Plot 2 and its relationship with others on Broomfield Road.

18. There would also be sufficient space around the dwellings to ensure they would not appear cramped. This would be helped by the orientation of the dwellings to the two streets and the relationship, which appears a wholly sensible and appropriate arrangement. The dwellings would also not appear to have a significantly larger footprint than others in the area. Thus they would not appear to be overly large or dominant buildings when considering they would be seen as the same height as their neighbours.
19. I am satisfied that there is a material difference between this proposal and that considered in the previous appeal. While the development would alter the street scene and be more prominent than the existing bungalow, the scale and height of development has been reduced and I consider the design of the dwellings would not be wholly uncharacteristic of those nearby. As a result, I do not consider that the development would be materially harmful to the character and appearance of the area. Accordingly, there would be no conflict with saved policy BE1 of the CDLP which seeks, amongst other things, development to be of a high quality of design which has had regard to the visual impact on local townscape character.
20. Policy DBE3 of the CDLPPD has also been cited within the Council's reasons for refusal. This seeks to promote and enhance Canterbury District's distinctive character through high quality design. Again, I have given this policy some weight considering the stage the plan is at in its preparation and its consistency with the Framework. The development would be consistent with its requirements. Finally, I see no conflict with the requirements of sections 6 and 7 of the Framework, which seek to deliver a wide choice of quality homes and good design.

Conclusion

21. Notwithstanding my comments on the character and appearance of the area, the potential risk of the development to the SPA without adequate mitigation would conflict with both local and national policy. For this reason, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR