
Appeal Decision

Site visit made on 19 January 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 9 February 2017

Appeal Ref: APP/Z2260/W/16/3156717

Land adjacent Holy Trinity School, Dumpton Park Drive, Broadstairs CT10 1RX

- 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 Kent County Council against the decision of Thanet District Council.
 - The application Ref OL/TH/15/0956, dated 21 September 2015, was refused by notice dated 27 May 2016.
 - The development proposed is the erection of up to 28 dwellings.
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Decision

1. The appeal is allowed and permission is granted for the erection of up to 28 dwellings on Land adjacent Holy Trinity School, Dumpton Park Drive, Broadstairs CT10 1RX, in accordance with the terms of the application, Ref OL/TH/15/0956, dated 21 September 2015, subject to the attached schedule of conditions.

Preliminary Matter

2. The application was submitted in outline with all matters reserved for later determination except access. I have dealt with the appeal on this basis, treating the proposed site layout plan as illustrative only.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site, roughly rectangular in shape, comprises about 1.07 hectares of disused, overgrown land surrounded by a mixture of educational, leisure and residential uses. The proposal is to extend Cliffside Drive, an existing cul-de-sac to the north east, into the site, and to construct up to 28 dwellings. The illustrative layout shows a series of detached houses in an extended cul-de-sac arrangement with a link to the footpath which runs along the eastern boundary of the site. The land is owned by Kent County Council (KCC).
5. Situated within the extensive, continuous built-up area that extends from Ramsgate to Broadstairs, the currently undeveloped site lies well hidden within existing built development. From the west the site lies behind the two storey

housing which fronts onto Dumpton Park Drive, and from the north it lies behind the buildings and grounds of the Holy Trinity Primary School and the existing housing on Cliffside Drive. Whilst there are limited views into the site diagonally across the school grounds and glimpses between the houses on Dumpton Park Drive, housing on the appeal site would not be particularly noticeable from these two directions.

6. Seen from the south, the site lies beyond the frontage housing, bowling green and tennis courts on the northern side of Montefiore Avenue. Views of the new housing would be possible from the eastern end of the avenue, glimpsed through gaps between buildings and seen more easily over the tennis courts and from the end of the public footpath. However, these views would be distant, screened by the trees on the southern boundary of the site and would only bring closer views of housing which can be seen further away already.
7. A footpath runs along the eastern boundary of the site and it is from here that the new housing would be most readily seen. However, this footpath already has the character of an urban right of way, running alongside the existing housing of Cliffside Drive which would simply be extended further. At present this side of the footpath is enclosed by a tall unattractive chain link fence which combines with the vegetation within to limit views of the site. Further south, the footpath opens up with a pleasant area of open space behind the bowling green/tennis courts and a grass strip alongside the tennis courts. These areas, together with the King George VI Memorial Park to the south east, would remain as significant breaks in the built up area in this location.
8. The appeal site therefore adds little to the quality of the local environment and, as overgrown private land, has few intrinsically beneficial qualities to make it worthy of retention as open undeveloped space. As explained above, the site only makes a very limited contribution to the character of the area by virtue of the longer distance views it affords. Consequently, the proposal would not materially conflict with Policies D1 and SR11 of the Thanet Local Plan 2006 (TLP) which seek to retain gaps in development and private open spaces if they make an important contribution in these respects.
9. The administrative boundary between Broadstairs and Ramsgate runs across the southern part of the site but as the built up area of the two towns has effectively merged the two communities are no longer clearly distinct. In any event, the retained open space to the south of the site and the Memorial Park would continue to physically separate the two settlements.

Other matters

10. The appeal site is suitable for an expansion of the Holy Trinity Primary School which lies immediately to the north west. However, when a shortage of local primary school places became apparent in 2012 the governing body of the school rejected its enlargement. KCC, as local education authority, developed alternative plans for expansion including at Newington and St Georges Schools, and together these are expected to meet projected pupil numbers. Moreover, KCC state that the sale of the appeal site forms a critical part of the funding package for the additional places which are currently being delivered.
11. The governing body of the school have changed their position and now wish to expand, but there is no immediate requirement for further places in the area. KCC, who also own the playing field on the other side of Dumpton Park Avenue,

have confirmed that this could be made available for the future expansion of the school. Although the appeal site would be more convenient, the long term future of the school would therefore not be prejudiced. The school disagree, but KCC as local education authority have the statutory responsibility to plan future primary school provision in the area. The need to retain the appeal site for future school use was not a reason for refusal by the Council and there are no substantive planning objections to housing on the site.

12. A large number of objections have been raised against the scheme, many concerned with the principle of housing development on the site. However, as explained above, the proposal is not contrary to the TLP and would make a valuable contribution towards the housing needs of the area.
13. Various traffic, parking and highway safety concerns have been raised, but the highway authority are satisfied with the scheme subject to conditions. The implications for wildlife have been assessed through ecological reports which recommend a series of mitigation measures and these can be secured by condition. Layout and design issues such as house types, proximity to nearby properties, privacy and refuse collection arrangements would be addressed at reserved matters stage. Drainage arrangements and issues arising during the construction period can also be controlled by appropriate conditions. Finally, the light pollution, noise and other disturbance arising from new residents in the area would not be significant given the urban context of the site.

Unilateral Undertaking and Conditions

14. The appellant has submitted a unilateral undertaking to provide an affordable housing scheme of eight units on the site together with financial contributions of £19,000 towards play facilities at the King George VI Memorial Park, £112,000 towards St George's Primary School, £66,074 towards St George's Church of England Foundation School, £1,344 towards library book stock and £542 per dwelling to fund mitigation measures to avoid adverse impacts on the Thanet Coast and Sandwich Bay Special Protection Area (SPA).
15. The proposal would generate additional demand for local recreational facilities, school places, library services and extra visitor pressure on the SPA which may threaten its biodiversity. As such, the contributions would be necessary, directly related and fair and reasonable in scale and kind, the three tests in Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the National Planning Policy Framework.
16. The Council have confirmed that the undertaking would be effective, that the contribution towards play facilities would fund specific items of equipment and that SPA mitigation measures would not comprise infrastructure. In addition, KCC have confirmed that the school and library contributions would not breach the pooling restriction in Regulation 123 (3) of the CIL Regulations. There is no reason to doubt these assurances and accordingly the unilateral undertaking should be taken into account in this case.
17. The Council has put forward several conditions should the appeal be allowed. As an outline application three conditions need to be attached to require the approval of the reserved matters and the commencement of the development within the standard time limits. In addition, conditions are necessary for the approval and then implementation of the highway design, car/cycle parking provision and construction arrangements in the interests of highway safety and

sustainable transport. A sustainable surface water drainage scheme and the control of ground infiltration are necessary to prevent flooding and pollution. Finally, conditions are necessary to ensure ecological enhancement measures are included, building heights controlled and any contamination is addressed in order to protect ecological interests and ensure a satisfactory development.

18. Policies EP5 and D1 of the TLP do not require the provision of electric vehicle charging points and superfast broadband respectively and these requirements have not therefore been justified.

Conclusion

19. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) Details of the layout, scale and appearance of the buildings to be erected, and the landscaping of the site (hereafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this decision.
- 3) The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority, and the development shall then be carried out as approved prior to the first occupation of any dwelling.
- 5) Prior to the first occupation of any dwelling, secure cycle parking facilities shall be provided and thereafter maintained in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

- 6) The details to be submitted in pursuant of Condition 1 above shall include a construction management plan, to include the following:
 - (a) Routing of construction and delivery vehicles to/from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries (no deliveries before 9.30 am or between 2.45 and 3.45 pm)
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management/ signage
- 7) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be based on the strategy prepared by DHA dated August 2015 and shall demonstrate that the surface water generated by the development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through infiltration features located within the site.

Those details shall include:

 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by a public body or statutory undertaker, or other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

No dwelling hereby permitted shall be first occupied until the scheme has been implemented in accordance with the approved details and the scheme shall thereafter be managed and maintained in accordance with those details.
- 8) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
- 9) The landscaping scheme to be submitted pursuant to Condition 1 above shall include the ecological enhancement measures as identified within the submitted Ecological Appraisal documents and as may be required following further detailed bat activity surveys.
- 10) The details to be submitted pursuant to Condition 1 above shall show development not exceeding the building heights indicated within the Design and Access Statement dated August 2015.
- 11) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted to, and received approval in writing from, the Local Planning Authority a remediation strategy detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall then be implemented as approved.