

Appeal Decision

Site visit made on 20 February 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 13 March 2017

Appeal Ref: APP/J2210/W/16/3163362

Land at Dockers Field Farm, Pean Hill, Blean CT5 3BJ

- 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 Messrs J and C Amos against the decision of Canterbury City Council.
 - The application Ref 16/01357, dated 9 June 2016, was refused by notice dated 15 August 2016.
 - The development proposed is the erection of nine family dwellings with access and associated parking (matters of appearance, landscaping, layout and scale reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for later determination except for access. I have dealt with the appeal on this basis.
3. The emerging Canterbury District Local Plan¹ (ELP) is at examination and two stages of hearings have taken place. It is therefore at an advanced stage of preparation. However, I have not been provided with any significant details of the on-going timetable or the extent to which there remain any unresolved objections to each relevant policy and the degree of consistency with the National Planning Policy Framework (the Framework). The saved policies of the adopted Canterbury District Local Plan 2006 (CDLP) pre-date the publication of the Framework. I have therefore ascribed weight to relevant saved and emerging policies for the purposes of this appeal in my reasoning on the main issues, having regard to Paragraphs 215 and 216 of the Framework.

Main Issues

4. The main issues are:
 - i) Whether the proposal would result in an acceptable pattern of development, with particular regard to settlement strategy and accessibility to services;
 - ii) The effect of the development on the character and appearance of the area, including the Blean Woods Special Landscape Area;

¹ Canterbury District Local plan – Publication Draft 2014

- iii) The effect of the development on the North Kent Marshes Special Protection Area and the Thanet Coast and Sandwich Bay Special Protection Area; and
- iv) Highway safety on Pean Hill.

Reasons

5. The site is currently principally occupied by CA Drillers, a diamond drilling company operating from an assortment of sheds and workshop units. The front section of the site is dominated by a rough field and the access, driveway and parking area. Towards the rear of the site, beyond the sheds and workshops, is a small grassed paddock area. Adjacent to the site are residential properties known as The Willows and Dockers Field House, which are occupied by the appellants and family members. On the opposite side of the site lie a horticultural nursery with substantial glasshouses, and a further residential property known as Chota.
6. Beyond the site to the rear, but within the appellants' control, there is a group of rundown farm buildings that are partially in use for miscellaneous storage but do not appear to have any agricultural use. These buildings lie adjacent to a wood identified by the Council as ancient woodland. Pean Hill consists of mixed residential and commercial ribbon development along the main road, surrounded by open fields and significant areas of woodland, giving the area a generally rural character.
7. It is proposed to clear the various buildings on site and erect nine dwellings with associated landscaping. It is also proposed to bring about associated biodiversity and landscape enhancement, including the removal of the nearby farm buildings, which lie outside the site.

Pattern of development

8. Saved Policy H1 of the CDLP focuses residential development to allocated sites or to other non-identified sites on previously development land within urban areas. The emerging overarching strategy for the delivery of housing in the district is also primarily focused on the urban centres, with limited new development in rural settlements, as set out in emerging Policies SP2 and SP3 of the ELP. The strategy is led by a number of proposed strategic site allocations, together with delivery on previously developed land in suitable locations in accordance with the district's settlement hierarchy. Pean Hill is not identified in the settlement hierarchy set out in emerging Policy SP4 of the ELP and the site therefore lies within the open countryside for the purposes of that policy. This emerging strategic approach, which updates and builds upon the adopted approach, is very advanced in preparation and is generally consistent with the Framework and I therefore attach significant weight to it for the purposes of this appeal.
9. Emerging Policy HD4 of the ELP sets out the circumstances in which new dwellings in the countryside will be permitted including, meeting an essential need for a rural worker that cannot be met by existing connected accommodation, securing the future of a heritage asset, re-using redundant or disused buildings, or being of exceptional or innovative design or quality. No significant evidence has been provided to demonstrate that the proposal would meet any of the specified circumstances. Saved Policy BE1 of the CDLP

- principally relates to high quality design but also requires that regard should be had to the need for the development.
10. While the site is not visually isolated from other built development, it is nonetheless functionally isolated from services and facilities, with such provisions in Pean Hill being very limited. I note that there are regular bus services along the A290, including to Whitstable, Canterbury and the nearby village of Blean, which is identified as a local centre in the emerging settlement hierarchy and offers a number of local facilities not available in Pean Hill, such as a primary school and post office. There is a pedestrian footway along the A290 between the site and Blean, a bus stop close to the site entrance, and I acknowledge that some residents may work from home, thereby reducing commuting trips.
 11. However, in my view, the distance and topography is such that residents of the development would be more likely to make the majority of journeys to access services in Blean or further afield by private car than by other modes. Furthermore, I consider that the busy A290 would not provide an attractive route for walking or cycling. The location of the proposal would therefore be inconsistent with saved Policy C1 of the CDLP and emerging Policy T1 of the ELP, which among other things seek to ensure development is located where there are alternative choices of transport to the car.
 12. I note that a significant area of the site, principally the parts associated with the business use, is previously developed land consistent with the Framework's definition². However, a further significant area of the site does not appear to fit this definition, principally the field and paddock areas at the front and rear of the site. One of the core planning principles in the Framework is to encourage the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value. In this case the previously developed area generally consists of hard-standing and assorted, somewhat unsightly commercial buildings, and is not of high environmental value. However, this does not justify the proposed development, a significant part of which would not relate to previously developed land, and which would be unacceptable having regard to the settlement strategy and accessibility to services.
 13. I therefore conclude that the proposal would not result in an acceptable pattern of development, with particular regard to settlement strategy and accessibility to services. It would therefore conflict with saved Policies H1, C1, and BE1 of the CDLP and with emerging Policies SP4, HD4, and T1 of the ELP, the requirements of which are noted above. These policies are generally consistent with the aims of the Framework and the emerging policies are well advanced. I have therefore afforded them significant weight for the purposes of this appeal.
 14. Reference is also made by the Council to emerging Policy SP1, which I have had regard to as a general sustainable development policy, but it is not as location-specific as Policies H1 and SP4 and, as such, has not been determinative in my consideration of this main issue.

² Annex 2: Glossary – National Planning Policy Framework

Character and appearance

15. The existing commercial buildings are somewhat unsightly however they are generally modest in scale and nature. They are also largely screened from public view from the road by a combination of the existing dwellings nearby, the front boundary hedge and other tall hedges around Dockers Field House. A more prominent feature of the existing use, when viewed from the road, is the parking area alongside the access drive which is particularly visible across the front field. The field itself, although roughly kept, is visually unassuming and compatible with the wider context of fields and woodland that surrounds and intersperses the development along Pean Hill, giving this area a distinctly rural character overall.
16. The introduction of residential built form would significantly change the character and appearance of the site as a whole. This would be particularly the case in the front field area where, notwithstanding any subsequent landscaping proposals as a reserved matter, the residential character of the proposal would be clearly apparent and visually prominent from the road, to the detriment of the overriding rural character and appearance of the wider area. The development would also significantly and detrimentally alter the character and appearance of the rear paddock area for the same reasons, albeit this part of the scheme would only be glimpsed from the road. The proposal would therefore fail to have appropriate regard to the landscape character, setting and context of the site as required, amongst other things, by saved Policy BE1 of the CDLP and emerging Policy DBE3 of the ELP. These policies are generally consistent with the aims of the Framework and the emerging policy is well advanced. I have therefore afforded them significant weight for the purposes of this appeal.
17. The residential redevelopment of the area of commercial buildings would be reasonably well set back from the road and largely screened from it by Dockers Field House and the hedges there, and by Chota. Furthermore, the appearance of this part of the site would be improved in comparison to the existing buildings and the residential character of the proposed houses in this area would relate better to the three existing houses nearby. However, this modest benefit to the character and appearance of the site would be largely localised and so would not outweigh the harms arising to character and appearance in relation to the proposal overall, or the harms identified in relation to the first main issue.
18. For the same reasons the location and scale of the proposal would also be detrimental to the area identified by saved Policy R6 of the CDLP as the Blean Woods Special Landscape Area (SLA). This policy seeks to prioritise the conservation and enhancement of the natural beauty of the landscape. A landscape designation for the Blean Woods area is proposed to be retained through emerging Policy LB2 of the ELP, whereby it is identified as an Area of High Landscape Value.
19. Policy LB2 requires consideration of the extent to which the location, scale, design and materials would protect local landscape character and enhance its future appearance and nature conservation interest. The design and materials are not matters for detailed consideration in this appeal. I note the appellants' view that there is no apparent landscape appraisal or reasoning to support its inclusion in Policy LB2, however that is chiefly a matter for the examining

Inspector. For the purposes of this appeal, I have given these policies moderate weight as they are generally consistent with the aims of the Framework in relation to protecting and enhancing valued landscapes.

20. I therefore conclude that, overall, the proposal would harm the character and appearance of the area, including the Blean Woods SLA. It would therefore conflict with saved Policies R6 and BE1 of the CDLP and emerging Policies DBE3 and LB2 of the ELP, the relevant requirements of which are set out above.
21. In coming to this view, I have had regard to the landscape and biodiversity enhancements proposed, including in relation to the adjacent ancient woodland. While the agricultural buildings are rundown, and the area immediately around them is untidy, they are visually unobtrusive in the wider landscape and their agricultural appearance is appropriate to the setting. Their removal and associated biodiversity measures would represent a modest benefit to the local area, but this would not be sufficient to outweigh my concerns, including in relation the first main issue. Moreover, such enhancement measures could be undertaken independently from the proposed development. These proposed measures would not represent special circumstances in the context of Paragraph 55 of the Framework since it has not been demonstrated that any of the listed circumstances apply. The circumstance leading to 'an enhancement to the immediate setting' relates specifically to development that would re-use redundant or disused buildings, which is not the case here.

Special Protection Areas (SPAs)

22. The site lies within the identified zones of influence around the Thanet Coast and Sandwich Bay SPA and The Swale SPA, designations of European significance. Both sites are also designated as Ramsar Sites of international importance. It is established that any development resulting in a net increase in the number of dwellings within the zones of influence, without mitigation measures, would be likely to have a significant effect on the SPAs within the meaning of the Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations), resulting from increased recreational pressure.
23. Saved Policy NE1 of the CDLP does not specifically refer to the SPAs but does state that for European Protected Species planning permission will only be granted where the tests set out in the Habitats Regulations are satisfied. The SPAs are of local, national and European importance and it follows that great weight should be given to their nature conservation interests. Emerging Policy LB5 of the ELP sets out that where it cannot be concluded that there would be no adverse effect on the integrity of any European sites the plan or project will be refused. These policies are generally consistent with the requirements of the Habitats Regulations and with the Framework, which seeks to ensure that development that would have a likely significant effect on protected sites or species is not granted unless appropriate mitigation is secured. I have therefore afforded these policies significant weight in my considerations.
24. The Council has prepared Strategic Access Management and Monitoring (SAMM) strategies for the Thames Medway and Swale Estuaries³, relating to the North Kent Marshes including The Swale SPA, and for the Thanet Coast and

³ Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy July 2014

- Sandwich Bay SPA⁴. These strategies set out a number of SAMM elements, including wardening, visitor engagement, dog project, signage, enforcement and monitoring, towards which the Council seeks financial contributions in order to mitigate the impacts of qualifying development.
25. To this end, the appellant has submitted a signed S106 Unilateral Undertaking (UU), dated 7 February 2017, in respect of the relevant contributions towards the mitigation measures set out in the two SAMM strategies. I note that the Council considers that the UU, together with a condition to ensure the mitigation is in place prior to occupation of the dwellings, would fully address its second reason for refusal. I further note that Natural England has no objection to the proposal on this basis.
26. I have considered the UU in relation to the tests set out in CIL Regulations 122 and 123 and Paragraph 204 of the National Planning Policy Framework. The SAMM contributions would be reasonably related in scale and kind to the development. The Council is satisfied with the content of the UU and on the evidence before me I see no reason to disagree. I am therefore satisfied that the UU meets the relevant tests and that it provides sufficient mitigation, by way of contributions, to satisfy the requirements of saved Policy NE1, emerging Policy LB5, and the two SAMM strategies.
27. In the event that the appeal had been allowed, a suitable condition could have been imposed to ensure that the dwellings were not occupied until the mitigation measures were implemented. The Council advises that negotiations relating to such implementation have advanced and that it is confident that mitigation in respect of both SAMM strategies will shortly be in place. On the evidence before me, I see no reason to doubt the Council's position.
28. I conclude that the proposal would not affect the overall integrity of the North Kent Marshes Special Protection Area and the Thanet Coast and Sandwich Bay Special Protection Area. It would therefore accord with saved Policy NE1 of the CDLP and emerging Policy LB5 of the ELP, the requirements of which are set out above. It would also accord with emerging Policy SP1 of the ELP, which sets out the presumption in favour of sustainable development, including taking account of the acceptability of proposals in light of any Appropriate Assessment required under the Habitats Directive and Regulations.
29. The Council also referred to a number of other policies in its reason for refusal. Saved Policy BE1 of the CDLP relates principally to design criteria and is not significant in respect of this main issue. Emerging Policy SP7 sets out Habitats Regulations mitigation requirements in relation to strategic development sites and is therefore not directly relevant to the proposal, which is not strategic in scale or nature. Emerging Policy LB9 of the ELP relates principally to biodiversity and nature conservation protection, mitigation, enhancement and connectivity measures concerning a development site and its surroundings where mitigation measures would be in the control of the developer. Therefore, while I have had regard to these policies, they have not been determinative in my considerations.

⁴ Strategic Access Management and Monitoring Plan: In respect of the Canterbury Section of the Thanet Coast and Sandwich Bay SPA November 2014

Highway safety

30. The development would be served by the existing access onto the A290 at Pean Hill, where a 40mph speed restriction is in place. No visibility splays or speed survey data were provided with the application. However, I saw on my site visit that visibility in both directions is good and I see no reason why the splays of 2.4m x 120m sought by the Council could not be achieved on land within the appellants' control or the highway verge. In the event that the appeal had been allowed, the provision and maintenance of the visibility splays could have been secured by condition.
31. Furthermore, the appellants' Transport Assessment shows that the number of trips generated by the proposal would be significantly less than those associated with the existing use of the site, and the types of vehicles involved are likely to be lighter. The Council has not contested these figures, and on the basis of the evidence before me and the level of activity and numbers and types of parked vehicles associated with the existing use that I saw on site, I see no reason to do so. I note that the relocation of the business could result in the relocation of trips elsewhere in the district. However, that would not be likely to have any significant bearing on highway safety associated with the appeal proposal.
32. I therefore conclude that the proposal would not adversely affect highway safety on Pean Hill. It would therefore accord with saved Policy BE1 of the CDLP and emerging Policy DBE3 of the ELP, which set out design criteria including accessibility and safe movement within and around the proposed development.

Planning Balance

33. The appellants are of the view that the Council cannot currently demonstrate a five-year supply of deliverable housing, principally because the Inspector's findings in respect of the examination of the ELP are yet to be published and so the Council's assertions on the supply of sites is not tested. Therefore, they consider that the weight due to relevant policies for the supply of housing, including countryside protection policies, is significantly diminished.
34. Following the Stage 1 ELP examination hearings, the Council considered it had 5.64 years' supply. The examining Inspector's 'Further Findings and Main Modifications' letter, dated 15 December 2016, relates to actions arising from the Stage 2 hearings. While this does not directly address five year housing land supply, it does include a recommendation that an additional site allocation for 40 dwellings at Brickfield Farm, proposed by the Council as one of a number of additional allocations following the Stage 1 hearings, should be removed. The Council has now updated its housing supply calculations, removing Brickfield Farm, and considers there to be 5.34 years' supply.
35. The appellants' do not accept that this updated supply position is clear cut, again principally because the examination is not completed. However, no significant evidence has been provided to this appeal to contest the Council's latest supply figure. In light of this, and on the basis of the advanced stage of the examination and the evidence before me, I consider that for the purposes of this appeal it is more likely than not that the Council can currently demonstrate a five-year supply in accordance with Paragraph 49 of the

Framework. The relevant policies for the supply of housing are therefore up-to-date and the fourth bullet of Paragraph 14 is not engaged.

36. I have considered the various benefits that the development would bring, including that it would facilitate the relocation of the business elsewhere, potentially to a more sustainable location, in order for it to expand and provide additional local employment; the potential benefits to local residents' living conditions from the cessation of the business use; the social and economic benefits associated with the provision and occupation of nine dwellings; the re-use of the brownfield parts of the site; the removal of the 'ad-hoc' buildings and chattels associated with the current use of the site; the cleaning-up of the site; the landscape and biodiversity enhancements including the removal of nearby agricultural buildings; the reduced vehicle trips; and that the development could help to support facilities in nearby villages such as Blean. I have afforded these benefits moderate weight in favour of the development. However, and while I have not identified harms in relation to the SPAs or highway safety, the benefits do not outweigh the harms that would arise from the unacceptable pattern of development and to the character and appearance of the area.

Conclusion

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

Catherine Jack

INSPECTOR