
Appeal Decision

Site visit made on 21 February 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/J2210/W/16/3164338
Land to rear of 15 Burnan Road, Whitstable

- 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 J A Ellis (Minster) Ltd against the decision of Canterbury City Council.
 - The application Ref 16/02259, dated 26 September 2016, was refused by notice dated 21 November 2016.
 - The development proposed is erection of detached chalet bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Canterbury District Local Plan, (the Local Plan) was adopted in 2006. It is proposed to be replaced by the emerging Canterbury District Local Plan (eCDLP) which is in the process of Examination. The weight to be given to the relevant policies of both documents in my consideration of the main issues below, is in accordance with paragraphs 215 and 216 of the National Planning Policy Framework (the Framework).

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether the proposed development provides appropriate mitigation measures in respect of the North Kent Marshes Special Protection Area (SPA) and the Thanet Coast and Sandwich Bay SPA.

Reasons

Character and Appearance

4. The appeal site is within the urban area of Whitstable and is located to the rear of 15 Burnan Road, a semi-detached bungalow. A driveway between 15 and 13 Burnan Road provides access to the appeal site which backs onto a stream at the rear of properties. To the rear of 13 Burnan Road is a property, no 13A, which has recently been converted for residential use, together with an electrical sub-station.
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5. It is proposed to erect a chalet type dwelling of one and a half storeys with a single bedroom at first floor level. The front elevation of the property would face towards the rear of 15 Burnan Road with parking and bike storage to the front.
6. Burnan Road has a strong linear character with properties facing the road with small front gardens and long, narrow rear gardens. With the exception of no. 13A, backland or tandem development does not occur. Accordingly the proposed development, being located to the rear of existing properties would introduce an inappropriate form of development which is out of character with the area. Whilst the proposed development would not generally be visible from the road and would only be visible from a small number of nearby dwellings it would still be an incongruous feature which would not relate to the linear character of Burnan Road.
7. The appeal site is small and, notwithstanding the innovative design approach, the proposed development would occupy a greater proportion of the plot than is common within the locality. As such I find that the proposal would appear cramped on the site. It would be an over-development of the site and out of character in terms of form and layout with the prevailing pattern of development in Burnan Road.
8. The conversion of no. 13A to residential use does not provide adequate justification for allowing the development of the appeal site as a pair of dwellings. No. 13A was not developed for residential purposes and was previously in an alternative use. Consequently the reasons for allowing residential use on that site are quite different from the circumstances which exist on the appeal site. In addition the proposed development would be of a very different scale and occupy a much smaller plot than no. 13A.
9. The appellant states that the Council's policies do not restrict backland development. Whilst neither the Local Plan nor eCDLP make specific reference to backland development Policy BE1 of the Local Plan, to which I give substantial weight because of its consistency with the Framework, establishes the criteria for new development including the impact on townscape character. Additionally Policy DBE3 of the eCDLP states that development proposals will be assessed against a number of considerations including the character, setting and context of the site. I also attach considerable weight to this policy because of its consistency with policies in the Framework.
10. I have had regard to the fact that Policies BE1 and DBE3 encourage land to be used more efficiently but this should not be to the detriment of design quality in its widest sense.
11. I have also had regard to the Council's Residential Intensification Design Guidance which indicates that site layout should follow the character of the area. The Guidance also suggests that development plots should be of a similar size to those prevailing in the adjoining area. This Guidance amplifies the relevant policies and therefore carries limited weight.
12. Accordingly I find that the proposed development would adversely impact on the character of the area and therefore conflict with Policy BE1 of the Local Plan and Policy DBE3 of the eCDLP. It would also be contrary to the objectives of the Framework in respect of the requirement for good design.

Mitigation

13. A signed and dated Unilateral Undertaking under Section 106 of the Town and Country Planning Act, 1990 has been submitted by the appellant. This would secure the delivery of the necessary measures to mitigate the impact of the proposed development on the North Kent Marshes SPA and Thanet Coast and Sandwich Bay SPA through a financial contribution. I am satisfied that this contribution complies with the requirements of Policy NE1 of the Local Plan, and Policies SP7, LB5 and LB9 of the eCDLP and accord with the Habitats Regulations and Directive. The contribution is also consistent with Regulation 122 of the Community Infrastructure Regulations, 2010.

Other Matters

14. Concerns were raised by neighbouring residents about parking and access, the impact on the living conditions of neighbouring occupiers and flood risk. The proposal makes provision for parking in accordance with appropriate standards and the additional traffic using the access would not be materially different from the present situation. By virtue of the distance and orientation of windows I do not consider that the proposed development would have an adverse impact in terms of loss of light or privacy. With regard to flood risk I note the different positions of the main parties and that the Council did not include this as a reason for refusal but as I am dismissing the appeal for another reason it is not necessary for me to conclude on this matter.
15. The appellant states that there is a demonstrated housing need within the district and the proposal would meet the Framework requirement to deliver a wide choice of housing in a highly sustainable location. I have been presented with no evidence of housing need but even if there was a requirement for additional housing a single dwelling would have a negligible effect upon the supply and would not outweigh the harm I have identified.

Conclusion

16. I have found that the proposed development would provide appropriate mitigation in respect of the North Kent Marshes SPA and Thanet Coast and Sandwich Bay SPA and this would have a neutral effect. However, I have also identified harm in respect of the adverse impact on the character and appearance of the surrounding area. For these reasons, and taking account of all other matters raised, the appeal is dismissed.

Kevin Gleeson

INSPECTOR