
Appeal Decision

Site visit made on 15 May 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 24 July 2017

Appeal Ref: APP/J2210/W/16/3166055

Bigbury Orchard, Bigbury Road, Chartham Hatch, Kent CT4 7NE

- 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 and Mrs Nevell against the decision of Canterbury City Council.
 - The application Ref 16/00269, dated 1 February 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the erection of 6 holiday letting units, a reception building and a store.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 holiday letting units, a reception building and a store at Bigbury Orchard, Bigbury Road, Chartham Hatch, Kent CT4 7NE, in accordance with the terms of the application, Ref 16/00269, dated 1 February 2016, and subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant submitted an amended site layout plan with the appeal¹ which shows the proposed buildings set no closer than 15 metres from the site boundaries, and requested that I determine the appeal on the basis of this amended plan. The amended proposal would be no different in footprint, scale or appearance, but the area within the revised red line boundary would be increased by several hundred square metres compared with the site layout plan originally submitted and would result in the loss of a greater proportion of the orchard area. Consequently the amended site layout plan should be considered by the Council as a fresh application in the first instance, and for the avoidance of doubt I have determined the appeal on the basis of the site layout plan submitted with the application.
3. The Council has confirmed that subject to a condition requiring implementation of the recommendations in the ecological assessment submitted with the appeal, the second reason for refusal would be overcome.

Application for costs

4. An application for costs was made by Mr and Mrs Nevell against Canterbury City Council. This application is the subject of a separate Decision.

¹ PL03 Revision A

Main Issue

5. The main issue in the appeal is therefore the effect of the proposal on the character and appearance of the area, with particular regard to the location of the site within an Area of High Landscape Value.

Reasons

6. The National Planning Policy Framework requires the planning system to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The appeal site lies within the Valley of the River Stour around Canterbury, which has been designated in the Canterbury District Local Plan First Review (LP) (2006) as an Area of High Landscape Value. The purpose of the designation is to protect the historic setting of Canterbury and the World Heritage Site. LP Policy R7 of gives protection to such areas and requires proposals to be subject to a consideration of landscape impact.
7. The site is a field on the south side of Bigbury Road. The northern-most part of site slopes slightly to the south as far as a line of alder trees which extends most of the way across the site from east to west. South of this tree line the slope is steeper in nature. An orchard is laid out within the southern -most part of the site, and there a number of trees scattered throughout the upper section within pasture land. Bigbury Road is a narrow lane enclosed on either side by trees for some way in either direction in the vicinity of the site, and forms the ridge of the hill that is visible for some miles to the south, including from the railway lines and the A28. East and west of the site there is extensive mature woodland and the bridleway CB520 runs along the south east of the appeal site. There are a small number of individual dwellings within the patchwork of fields and woodland on the southern slope of the North Downs.
8. The proposal would involve the erection of 6 lodges to form holiday lets, a building housing a reception area and games room and a separate store. A new site access including visibility splays would be created from Bigbury Road and a parking area would be provided within the site. The appellant considers that the proposal would result in about 20% coverage of the site with buildings and hard surfacing, a figure which has not been disputed by the Council.
9. The units would all be single storey in height and constructed of timber, with slate type roofs, and timber decking surround, and would be screened in part by the existing mature trees within the upper part of the field which are to be largely retained. The Games Room would have floor to ceiling glazing along most of one side but this element would face into the site rather than across the valley. The parking area would be constructed to the rear of the holiday lets and thus would be relatively unobtrusive within the landscape. Consequently, taken together the development would appear as a group of modest agricultural buildings, associated with the adjacent orchard.
10. The appellants submitted a Landscape and Visual Assessment (LVIA) with the application. This identified a study area with a 1 km radius centred on the appeal site, taking in the North Downs Way and Bigbury Road to the north of the site, and the bridleway and railway line to the south. The LVIA concludes that due to the location of the site below the ridge of the hill, the key viewpoints towards the site are from Bigbury Road to the north and Bridleway CB520 to the south.

11. When viewing the site from Bigbury Road, there would be a minor loss of trees along the northern site boundary to create the proposed access and required visibility splays. The road is enclosed along each side by mature trees and hedgerow, but there are a number of other accesses in the vicinity along Bigbury Road, including the existing access to Bigbury Farm, and no built form would be visible from the road apart from the access road, due to the difference in ground level across the appeal site. As such the landscape and visual impacts from this viewpoint would be limited.
12. Turning to the views from the bridleway, I was able to walk along it from Bigbury Road to Tonford Lane during my site visit. Due to the difference in ground level and significant screening from trees and shrubs along either side of the bridleway, only a small part of the bridleway has open views to the north, but this is much further to the east of the appeal site. Consequently there would be no perceptible change to the view experienced by those using the bridleway. The North Downs Way also runs along land to the north of Bigbury Road about 300m from the site, but walkers travelling along it would not have direct views of the appeal site as it is located on the other side of the ridge of Bigbury Hill.
13. The Council has expressed concerns relating to long distance views across the valley towards the site, but has not identified any specific viewpoints from which the development would be visible. Although the Faversham to Canterbury railway line and the A28 run east-west some 1 km to the south, only momentary views would be possible whilst travelling along these routes. I passed Bigbury Hill by train on the way to the site visit and noted that the most prominent feature in the landscape is the large white poly tunnels on the lower southern slope. The appeal proposal, comprising a number of small timber clad buildings, would be partially screened by the orchard and would therefore not be prominent in long range views. Some cut and fill is proposed as indicated on the section drawing but direct views of this minor alteration to the landscape would be obscured by the extensive areas of woodland to the east and west.
14. Although the proposal would introduce built development where there is currently none, it would not undermine the overall landscape character of a patchwork of woodland, orchards and fields, and the visual impact would be limited by the self-contained nature of the site, its topography, and existing landscape features. It follows that the proposal would accord with criteria (a) and (c) of LP Policy R9, which require that new development and the change of use of existing buildings to provide tourist accommodation are in keeping with the rural surroundings in terms of nature and scale, and that the development can be implemented with no adverse effect on the character of the building or its setting, or the open character of the area, or with LP Policy R7.
15. I now turn to criterion (b) of LP Policy R9. This requires that access and parking provisions are acceptable, the use does not significantly increase traffic to the detriment of the rural area or highway safety and the site is accessible by a range of transport modes. There is no technical impediment to the provision of the vehicular access, including the required visibility splays and the Council has confirmed that suitable levels of on-site car parking would be provided. Furthermore, as traffic speeds along Bigbury Road, a minor road, are not of a significant level, there are no grounds to object to the proposal on highway matters.

16. The site lies about 2 to 3 miles to the east of Canterbury, a main transport hub with two mainline stations and a bus interchange. Whilst walking to and from the City Centre would be unlikely to form a popular mode of travel it could be an option for some. It would also be an acceptable distance for cyclists, with a route predominantly along quiet country lanes. I therefore consider that there would be no conflict with criterion (b) of LP Policy R9.
17. In support of the proposal the appellants have provided a financial appraisal of holiday lets, a forecast of estimated income and a farm diversification plan, including proposals to provide tours of the Orchard for visitors. The proposal would generate a requirement for 1 full time and 2 part time staff, and there would be some modest benefits for the local economy including two nearby public houses. It would therefore accord with LP Policy R4 states that the erection of new buildings will be permitted where they support the diversification of the rural economy.
18. I have also had regard to support for the scheme from 7 neighbouring occupiers, the Rough Common and Harbledown Parish Council, and Visit Kent. The absence of third party objections, whilst not an overriding factor, indicates that the nature and scale of the proposal is considered to be acceptable by the local community.
19. Taking all of the above into account, I conclude that the proposal would not cause material harm to the character and appearance of the surrounding area, with particular regard to the Area of High Landscape Value, and it would accord with LP Policies R4, R7 and R9.
20. The Council also referred to policies TV2, TV7, TV8 and LB2 of the submission Canterbury District Local Plan (2014). The Inspector's report on the examination of this document, published in June 2017, found the plan to be sound, subject to consultation on main modifications, and thus I attribute substantial weight to them, but for the reasons set out above I find no conflict with the cited policies.

Conditions

21. I have found that the proposal would be acceptable, subject to certain conditions. I shall specify the approved plans, for certainty. As referred to above, a condition to require the implementation of recommendations set out within the revised ecology report submitted with the appeal is necessary to protect and enhance the biodiversity interest of the site. I have altered the Council's suggested wording to ensure these works are carried out before the first occupation of any part of the development, to ensure the condition is sufficiently precise and enforceable.
22. I shall also impose conditions requiring a construction environmental management plan, provision and retention of a parking area within the site, and the use of bound material for the first five metres of the site access from the edge of the highway, in the interests of highway safety and to prevent the overspill of loose material onto the highway.
23. In order to ensure that the units are used only as holiday lets, conditions are required restricting their use for that purpose and only for persons who have a principal home, requiring a register of all occupants to be retained for at least 12 months and a time limit on the continuous occupation of the units.

24. A condition requiring the holiday lets to be sited in the locations shown on the approved plans is required to safeguard the character and appearance of the area, as the LVIA and my assessment of the proposal was made only on the basis of the locations as proposed. Details of hard and soft landscaping works, all proposed external lighting and samples of external materials are also required for the same reason. However, the proposed condition for a landscape management plan is too onerous given the scale of the development and anticipated landscape works on site and appears more appropriate for major residential developments, and so I shall not impose it. Likewise, details of finished floor levels are not required as these are already shown on the approved plans.
25. However, given the gradient of the land I agree with the Council that a report by a competent person should be required to be submitted to and approved in writing by the local planning authority to confirm the stability of the land.

Conclusion

26. For the reasons set out above I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans: PL01; PL02; PL03; PL04; PL05; PL06; PL07; PL08; PL09; PL10; PL11; PL12, all dated August 2015.
- 3) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, which shall include: routing of construction and delivery vehicles to/from site; parking and turning areas for construction and delivery vehicles and site personnel; timing of deliveries; details of site access point for construction; dust control measures; demolition and construction waste storage and removal; temporary traffic management/signage and details of wheel washing facilities prior to commencement of spoil removal on site and for the duration of spoil removal. Construction site operation times shall be between 0730 – 1800 Monday to Friday, 0800 – 1300 Saturday and at no time on a Sunday or Bank Holiday.
- 4) No development shall take place until suitably qualified and experienced person has carried out a full investigation and assessment to determine the stability of the land and determine whether the development of the site can be carried out without causing instability of adjoining land or structures, and a written report of the findings/assessment including any recommendations has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with any such recommendations set out within the aforementioned report that have been approved in writing by the local planning authority.
- 5) Prior to the first occupation or use of the development the area shown on the deposited plan for the parking and manoeuvring of vehicles shall be operational prior to any part of the development hereby approved being brought into use, unless otherwise agreed in writing by the local planning authority. The area agreed shall thereafter be maintained for that purpose.
- 6) The development hereby approved shall incorporate a bound surface material for the first 5 metres of the access from the edge of the highway.
- 7) Prior to the commencement of development hereby approved, full details of both hard and soft landscape works, to include: species, size and location of new trees, shrubs, hedges and grassed areas to be planted; the treatment proposed for all hard surfaced areas beyond the limits of the highway; walls, fences, other means of enclosure proposed. The details shall be submitted to, and approved in writing by the local planning authority.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development, or in accordance with a programme of works to be agreed in writing with the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in

the next planting season with others of a similar size and species. No trenches for underground services shall be commenced within the protective fenced area or within 5m of hedgerows shown to be retained without the prior written consent of the local planning authority.

- 9) The ecological enhancement measures set out within the Revised Preliminary Ecological Impact Assessment submitted with this appeal shall be carried out prior to the first occupation of any of the units and thereafter maintained.
- 10) Prior to commencement of any external lighting, full details including fittings, illumination levels and spread of light shall be submitted to, and approved in writing by, the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 11) Prior to the commencement of the development hereby approved samples of the materials to be used in the construction of the external surfaces of the development hereby approved shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples.
- 12) The premises shall be used as holiday lets and for no other purpose including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 13) The holiday let(s) shall be sited in accordance with proposed site layout plan PL03.
- 14) The development hereby approved shall be used for holiday accommodation only and no units shall be occupied continuously for a period exceeding 4 weeks by the same person(s) and shall not be reoccupied within 6 months of vacating the accommodation by the same person(s).
- 15) An up to date register of all current occupants shall be kept for the units of accommodation, hereby approved, and shall contain the name, main or home addresses and periods of occupation by any occupant(s); this log shall be kept up to date for a period and cover at least the last 12 months. The log shall be made available for inspection on demand at any reasonable hour by an officer of the local planning authority.
- 16) The holiday let shall not be used or occupied for any purposes other than as holiday accommodation by persons whose only, or principal, home is situated elsewhere.