

Appeal Decision

Site visit made on 4 July 2017

by M C J Nunn BA BPL LLB LLM BCL MRTPI

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

Decision date: 9th August 2017

Appeal Ref: APP/J2210/W/17/3171305

80 Windmill Road, Herne, CT6 7DE

- 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 Simon Juhel against the decision of Canterbury City Council.
 - The application Ref CA/16/02466/FUL, dated 17 October 2016, was refused by notice dated 14 December 2016.
 - The development is described as 'proposed 2 bedroom chalet bungalow with associated off street parking and dropped kerb'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Canterbury District Local Plan ('the Local Plan') was adopted on 13 July 2017 and replaces the 2006 Canterbury District Local Plan. The parties' views were sought on any implications for this scheme, and I have taken into consideration any comments received. I have assessed the appeal on the basis of the 2017 Local Plan.

Main Issues

3. The main issues are: (i) the effect on the character and appearance of the area; (ii) whether the new dwelling would provide satisfactory living conditions for future occupiers, in terms of outdoor amenity space; (iii) the effect on living conditions at No 66 Pigeon Lane, in terms of outlook; and (iv) the effect on the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar Site.

Reasons

Character and Appearance

4. The appeal site comprises the garden area of a semi-detached dwelling on the corner of Pigeon Lane and Windmill Road. The site is enclosed by a high timber fence that runs along Windmill Road. The area is characterised by a mix of relatively modern dwellings, of various designs, including two storey houses and bungalows. The locality has a spacious feel by virtue of the open front gardens of many of the properties and the expanses of lawn.
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5. The proposed chalet bungalow, occupying this small plot, would appear cramped and shoe-horned on to the site. The minimal separation to the existing dwellings on either side, together with the very limited depth of the rear garden would accentuate the restricted and confined impression of the dwelling within this constrained site. As such, the proposal would not be in keeping with the local pattern of development, and would appear visually incongruous, eroding the locality's character.
6. I find on this issue that the proposal would harm the character and appearance of the area. As such it would be contrary to Policy DBE3 of the Local Plan which requires design to reinforce and positively contribute to the local context.

Living Conditions – future occupiers

7. The Council has not cited any minimum standards for private amenity space. However, the rear garden of the proposed dwelling would be of very limited depth and, in essence, comprise a relatively meagre strip of land, largely reflecting the space left over after accommodating the dwelling on this site. It would not provide a high quality amenity space for the future residents of the dwelling, and would be smaller than many other gardens in the locality.
8. I find on this issue that the scheme would not provide satisfactory living conditions for future occupiers, in terms of outdoor amenity space. It would conflict with Policy DBE3 of the Local Plan which requires appropriate provision of amenity space.

Living Conditions – existing occupiers

9. The proposed dwelling would be unsympathetically juxtaposed with the neighbouring property at No 66 Pigeon Lane and its rear garden. The proposal would appear overly dominant when viewed from that property because of its close proximity and overall size. An unacceptable sense of enclosure would result, as well as a 'hemmed in' feeling, especially within the rear garden of No 66.
10. The Council has raised concerns that the development of the appeal site would result in the host property, No 80 Windmill Road, having insufficient amenity space. There is, however, an existing garden area to the north of the property. Although adjacent on two sides to the highway, this area is enclosed from the road and provides an adequate amenity area for the property. This, in itself, is not a reason for the appeal to fail, although it does not alter my other concerns.
11. Overall, I find on this issue that the proposal would harm living conditions for existing occupiers at No 66 in terms of outlook, contrary to Policy DBE3 of the Local Plan, which requires the amenity and outlook of neighbouring dwellings to be considered.

Effect on SPA/Ramsar Site

12. According to the Council, Natural England has published advice indicating that the proposal may affect the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar Site. The proposal may, either individually, or in combination with other developments, result in increased recreational pressures and disturbance to these protected sites. European legislation requires a

precautionary approach when considering the impact of a proposal on a site of international importance to nature conservation.

13. The appellant has not disputed the need for mitigation and is prepared to enter a planning obligation to secure a financial contribution. However, no completed planning obligation is before me, and no alternative mitigation has been proposed. In the absence of any mitigation, I cannot be certain that the proposal would not adversely affect the integrity of the SPA and Ramsar Site. As such the proposal would conflict with Policies SP6 and LB5 of the Local Plan which together restrict developments that could adversely affect the integrity of such sites.

Other Matters

14. The appellant has referred to the dwelling built adjacent to No 66 Pigeon Lane. However, that scheme was granted in 2003 under a different planning policy regime. Moreover, that plot is of greater depth allowing a more satisfactory layout and generous rear garden. The appellant refers to other permitted applications, but there is little information provided on them. In any case, my decision is based on the case before me and on its site specific circumstances. The appellant mentions that the appeal site now has a separate land registry title from the host dwelling, but I must consider the appeal on its planning merits.
15. I have carefully weighed the advantages of the scheme, including that the site is in a reasonably sustainable location, close to public transport and local facilities. It would make efficient use of a site within an established residential area and provide an additional dwelling. I also note that the proposed window arrangement has been carefully designed to minimise overlooking. The appellant also states that the new dwelling would shield No 66 from the view of passengers on passing buses, thereby improving privacy. However, none of these factors alter my concerns about the scheme.
16. In reaching my decision, I have considered the proposal in the context of the presumption in favour of sustainable development set out in the National Planning Policy Framework ('the Framework'). However, the Framework is clear that it is proper to promote or reinforce local distinctiveness, and to secure a good standard of amenity for all existing and future occupants of land and buildings. I find this proposal would fail to achieve those objectives.

Conclusion

17. To sum up, the proposal would conflict with Policies DBE3, SP6 and LB5 of the Local Plan. For the reasons above, I conclude that the appeal should be dismissed.

Matthew C J Nunn

INSPECTOR