The Planning Inspectorate

Appeal Decision

Site visit made on 24 July 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 15th August 2017

Appeal Ref: APP/V2255/W/17/3172403
Courtenay House, London Road, Dunkirk ME13 9LF

- 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 Mr and Mrs Datlen against the decision of Swale Borough Council.
- The application Ref 16/507038/OUT, dated 23 September 2016, was refused by notice dated 6 January 2017.
- The development proposed is described as 'outline application for the erection of a single dwelling to include access and associated parking'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form and makes it clear that all matters are reserved apart from access. The appellant has provided a series of plans that are marked as 'for illustrative purposes only' and show how the site could be developed. It was evident from my site visit that the access had been constructed and I have determined the appeal on that basis and that the plans are indicative.

3. The Council have referred me to Policies ST1, ST3, ST7 and DM24 of the emerging Bearing Fruits 2031: The Swale Borough Local Plan (Proposed Main Modifications June 2016) ('the LP'). Following the site visit the Council confirmed that the plan was adopted on 26 July 2017. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision and accordingly I have determined the appeal on that basis.

Main Issues

4. The main issues are:

    - Whether the site is suitable location for housing having regard to settlement strategy and the effect of the proposal on the character and appearance of the area including the effect on any non-designated heritage assets.

Reasons

5. The appeal site is formed by a rectangular piece of and with a tapered front section that sits to the side of Courtenay House, ,a substantial 2 storey former coaching inn that has been converted into flats. The land subject of this appeal lies to the side of Flat A, a ground floor flat and is used by the occupiers for amenity purposes, albeit that the Council consider planning permission is required for such a use.

6. The land is relatively level with mature hedgerows along its rear boundary. Access is from London Road via a large in and out driveway that would be shared with Courtenay House. The land to the rear of the buildings was free from significant development other than incidental outbuildings and the appeal site positively contributes to the sense of openness and spaciousness between properties on what is a transitional area between the countryside and the built up settlement. It would also appear that a significant amount of soft landscaping and trees have been removed to construct the access[1].

7. The site is outside the Built up Area Boundaries ('BUA') and is therefore in the countryside for planning purposes. Policies ST1 and ST3 of the recently adopted LP set out the settlement strategy for the district in order to meet the objectively housing assessed and places emphasis on the use of previously developed land within the defined built up areas and on sites allocated within the development plan. Policy ST7 relates to the Faversham area and provides housing at allocations or other appropriate locations where the role and character of Faversham and rural communities can be maintained/enhanced. Dunkirk is a fifth tier settlement and is therefore ranked at the bottom in terms of where the Council seeks to direct new homes and employment.

8. The settlement strategy essentially carries forward a hierarchy approach with defined as set out in emerging Policy ST3, which advises that outside the BUA boundaries, development will not be permitted, unless it is supported by national planning policy and it is demonstrated that it would contribute to protecting the intrinsic value and beauty of the countryside, amongst other things.

9. Facilities in Dunkirk were limited to a public house, farm shop and hall although Boughton under Blean is located approximately 1km away and contains a slightly wider array of services. Whilst there may be some limited services and employment in the settlement, I am not persuaded that the existing bus service, in combination with the lack of services such as schools or shops and employment in Dunkirk would not result in future occupants being dependent on the private car for the majority of their journeys to access day to day services and facilities further afield. I am mindful that the National Planning Policy Framework ('the Framework') advises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, although not physically isolated it would, to my mind, be somewhat functionally isolated.

10. Turning to the effect on character and appearance, the appeal site lies within an Area of Great Landscape Value (Kent and Swale Level) and within the 'Woodland Landscape Types' and 'Blean Woods West Special Landscape Area'. Supporting illustrative material shows the opportunities for tree planting and

[1] Drawing No. 8350/JTS/02.

landscaping although I am mindful that the construction of the access appears to have resulted in the loss of a number of tress that would have contributed to the landscape character of the area. Moreover, it would take a substantial period of time to mature and therefore have any real effect.

11. Whilst I appreciate the proposal is in outline form, having regard to the size and shape of the site I consider that the general form of development is likely to be similar to that shown on the illustrative plans. In visual terms the proposal would introduce a new dwelling in a position set notably behind existing built form. Given the narrow size of the plot it is also highly likely that any building would have a significantly narrower frontage and greater depth.

12. Consequently, any such dwelling is likely to extend behind the existing building line and be of a much greater scale than Dunkirk Farm. This would result in it being conspicuous on the approach past the appeal site from the village and somewhat at odds with the appearance of this part of the Canterbury Road streetscene. The encroachment of what is likely to be a significant amount of built form, in combination with the protrusion of the access and its associated boundary fencing would be harmful to the established pattern and character and appearance of this part of Canterbury Road, in particular the sense of openness and spaciousness. It would substantially diminish the visual contribution that the appeal site makes to the approach into the village.

13. The definition of heritage assets, as set out in the Framework, includes buildings, sites and places as having a degree of significance meriting consideration in planning decisions, because of their heritage interest. Heritage assets include designated heritage assets and non-designated heritage assets ('NDHA') identified by the local planning authority.

14. The Council have not placed the building on a local list of buildings of special or architectural and historic interest in the borough but the Planning Practice Guidance ('PPG') advises that local lists incorporated into Local Plans can be a positive way of identifying non-designated heritage assets on a consistent basis, but neither this nor the Framework requires that a building must be on a local list before it can be treated as a non-designated asset: the definition refers only to 'assets identified by the local planning authority (including local listing))'.

15. Such assets have a degree of significance due to their heritage interest that merits consideration in the planning process. I am mindful that Courtenay House has been significantly extended and is within proximity of other residential development. Nonetheless, the appeal site provides a sense of openness and spaciousness that positively contributes to the setting of the property, notwithstanding that it would appear its once wooded appearance has been substantially altered by the construction of the access.

16. Paragraph 135 of the Framework states that, in weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In my view, the site as a whole does have some interest as a heritage asset that is culturally significant to the history of the area, a point which is accepted by the appellant. What would effectively amount to the infilling of the appeal site with a very different form, scale and design of development would encroach onto this undeveloped part of the site to such an

extent that it would undermine the setting and significance of Courtenay House.

17. For these reasons, the proposal would not be a suitable location for housing in terms of the adopted settlement strategy, would cause harm to the character and appearance of the area and harm to the significance of a non-designated heritage asset in terms of its setting. Accordingly, it would conflict with Policies ST1, ST3, ST7 and DM24 of the LP which when read as a whole require development in accordance with a settlement strategy and seek to protect local character including that of the countryside.

18. The proposal would also conflict with paragraph 17 of the Framework, which amongst other matters states that regard should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

Other Matters

19. The site is within 6km of the Swale Special Protection Area and therefore a financial contribution toward mitigation is required and none is provided. If the circumstances leading to a grant of permission had been present, I would have given further consideration to the impact upon these in accordance with the Habitats Regulations. However, as I am dismissing the appeal on the main issues above I have not found it necessary to consider such matters any further.

20. I have had regard to the appeal decisions[2] put before me by the appellant. However, the decisions were made prior to the adoption of the current local plan and in the context of a lack of a 5 year supply of housing land. Having viewed the proposal at The Firs, Dunkirk Road South at the site visit, it also lies in an area with a different character. Overall, I do not find that they are directly comparable to the proposal before me and therefore do not alter my findings in relation to the main issue. In any event each case must be determined on its own merits.

21. I understand the appellant's desire to create a new home for their own occupation following retirement. However, the personal circumstances do not outweigh the harm that I have identified in this case.

Planning balance and overall conclusions

22. From the evidence submitted, it appears that there was a lack of a 5 year housing land supply when the Council determined the application. This position has changed with the adoption of the LP and the appellant acknowledges that such a supply has been demonstrated but also contends that given a persistent under delivery of housing, the proposal would make a limited but important contribution. I have therefore determined the appeal on the basis that the Council is able to demonstrate a five year supply of deliverable housing land in accordance with paragraph 47 of the Framework. In the context of a genuinely plan-led planning system the policies can be regarded as being up-to-date and I afford them full weight. This in turn means that the presumption in favour of sustainable development within paragraph 14 of the Framework is not engaged.

[2] APP/V2255/W/16/3157268, APP/V255/W/16/3146393 and APP/V2255/W/15/3004335.

23. In the unweighted balancing exercise the proposal would provide some limited economic benefits during construction. Regardless of the supply situation a new dwelling would be provided although on the evidence before me, I am not convinced that the proposal would provide for any meaningful enhancement or maintenance of the vitality of rural communities.

24. Taking everything together, the benefits would not outweigh the harm that I have identified in terms of the conflict with the settlement strategy, harm to the character and appearance of the area and the harm to the significance of a non-designated heritage asset. The proposal would not accord with an up to date development plan and as such would not represent sustainable development.

25. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with it and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR