
Appeal Decision

Site visit made on 21 August 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/J2210/W/17/3174681

The Shielings, Chapel Lane, Blean, Kent CT2 9HF

- 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 & Mrs A Murch against the decision of Canterbury City Council.
 - The application Ref 16/02334, dated 4 October 2016, was refused by notice dated 14 February 2017.
 - The development proposed is described as 'erection of dwelling on land adjacent to The Sheilings'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. I have taken the description of development from the original application form as that is what was applied for. The Appeal form and decision notice describe the development as a 'proposed two storey detached dwelling' this is not an incorrect description of the development but I have no authority to change the description of the application. The application seeks consent for the erection of a detached dwelling on a plot created from within the existing plot of The Sheilings. The property proposed is a chalet bungalow with rooms in the roof void.
3. Subsequent to the determination of the application I have been notified that the Council has formally adopted the Canterbury District Local Plan Publication Draft 2014 now referred to as the Canterbury District Local Plan 2017 (CDLP). I am informed the draft policies referred to in the reasons for refusal are now formally adopted. The only change drawn to my attention is that policy SP7 has now become SP6. The CDLP replaces the Canterbury Local Plan 2006 and its policies saved in 2009. The CDLP is now part of the Development Plan for the area and the policies referred to as draft in the reasons for refusal have the full weight of the Development Plan. Those policies referred to from the Canterbury District Local Plan 2006 have now been superseded and no longer form part of the development plan, in particular policies H1, BE1 and BE7 as referred to in the reasons for refusal are now superseded. I have taken my decision on the above basis.
4. As part of the appeal documentation I have been provided with a signed and executed Unilateral Undertaking (UU) under sec 106 of the Town and Country

Planning Act 1990. The Obligations in the UU make provision for financial contributions towards the Thames, Medway and Swale Special Protection Area and the Thanet Coast and Sandwich Bay Special Protection Area. I shall return to this at the appropriate part of my decision below.

Main Issues

5. The main issues are

- Whether the proposed development would provide a suitable site for housing, having regard to the proximity of services and the character and appearance of the area;
- The effect of the proposed development on the living conditions of the occupants of the adjoining property, Bramley, and whether it would provide acceptable living conditions for future occupants with particular reference to privacy;
- Whether the proposed development would preserve or enhance the character or appearance of the Amery Court Conservation Area (ACCA); and
- Whether the proposed development makes adequate provision for the mitigation of its effect on the Thames, Medway and Swale Special protection Area and the Thanet Coast and Sandwich Bay Special Protection Area.

Reasons

Suitable location for housing

6. The plot for the proposed property would be created through the subdivision of the existing plot of The Sheilings, a two storey detached dwelling in substantial grounds. The Sheilings is located in a small cluster of properties at the northern end of Chapel Lane including 'Arbele House', a grade II listed building, and 'Bramley' to either side. Beyond these are Amery Court, also a grade II listed building, and the farm buildings associated with the farms identified on the historic maps as Walnut Tree Farm and Arbele Farm.
7. Chapel Lane leads from the village of Blean where it intersects with the A290. The first section of the road is located within the built up area of the village. However, there is a break in the built frontage when the lane has a significantly more rural character and appearance. There is a break between the edge of Blean and the cluster of properties within which the appeal site is located. They are separated by arable fields which continue on the lane opposite the appeal site. The lane is bounded by mature hedge and tree planting which creates a distinct rural feel. The detached properties although somewhat suburban in character are detached houses set in large grounds and set well back from the road. In my view the properties in this section of Chapel Lane are segregated from the main village of Blean and are not within the built up area of the village.
8. I note the Council do not identify village boundaries by lines on the proposals map and therefore it is left to a matter of judgement as to whether a site is located within the built up area of the settlement. In my view this site is

located outside the settlement of Blean for the purposes of the development plan.

9. Policy SP4 of the CDLP sets the strategic approach to the location of development. The context for the policy is a district settlement hierarchy where broad tiers of settlements in the district have been identified based on the size of the settlements and the range of services they possess. The Council seeks to concentrate new housing development primarily in the urban centres of the district with new development in rural settlements limited and proportionate to their scale and position in the settlement hierarchy. The plan sets out a rural settlement hierarchy of rural service centres, local centres villages and hamlets and identifies named settlements in each tier. Blean is identified as a Local Centre.
10. The policy does not expressly state that anything not in the identified settlements is in the open countryside although the way the policy is structured development is to be directed towards allocations in the plan and in addition to those areas in the policy at the scale identified in the policy. This is a permissive policy and therefore anything not mentioned does not have the benefit of the support of the policy.
11. The appeal site is set within a cluster of properties and buildings and it is reasonable to describe this as a hamlet. Indeed in the Conservation Area report in relation to the designation of Amery Court Conservation Area it is described as North Blean and referred to as a hamlet. The small cluster of houses that form this hamlet and within which the appeal site is located is not identified in the list of hamlets in the rural settlement hierarchy. It therefore does not fall within the settlement hierarchy and is not covered by points 2 or 3 in policy SP4. The settlement is not one of the identified hamlets in the rural settlement hierarchy and is therefore not supported by policy SP4.
12. The proposed development is for a residential dwelling and there is no contention that it is for agriculture or forestry purposes. So even if it were concluded that areas outside the identified settlements was open countryside the proposal would not be supported by SP4, HD4 or EMP3 which allow for such development in the open countryside.
13. In terms of the National Planning Policy Framework (the Framework) paragraph 55 advises that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 also advises that new isolated homes in the countryside should be avoided unless there are special circumstances. The proposed property would sit in a small hamlet where there are a number of properties it would not in that sense be an isolated home. The site is located a short distance from the village of Blean which is a local centre in the rural settlement hierarchy. The site is within reasonable walking distance of the centre which provides access to frequent bus services and accommodates services to meet the day to day needs of future residents. Indeed these are the facilities that support the existing residents at the adjoining properties.
14. The immediate context of the appeal site is large detached houses in substantial grounds set within a small hamlet in a rural setting. The subdivision of the plot would result in the provision of a plot substantially smaller than those surrounding and in this regard would result in an intensification of development. Whilst there is a degree of screening created

by the boundary hedges and trees in the vicinity the roof and upper levels of the property would be readily visible. The space between properties would be reduced and give this section of the lane a less open appearance. It would however not change the overall character of the location from a small cluster of properties in a rural setting and would be reasonably integrated into the local landscape and townscape. It would therefore not conflict with policy DBE3.

15. Overall for the reasons given above I conclude that the proposed development would provide a suitable site for housing, having regard to the proximity of services and the character and appearance of the area. Consequently it would not conflict with policy DBE3. Moreover, albeit that it would not be supported by development plan policies CP4, HD4, and EMP3 it does not directly conflict with those policies.

Living conditions

16. The application details identify a chalet bungalow with rooms in the roof void area. The ground floor accommodation would provide for a main living kitchen area, a snug and a utility room along with three bedrooms (two of which are identified as bed/study). The upper floor would accommodate a master bedroom and en-suite.
17. The rear elevation of the bungalow has a dormer window with opening casement windows at first floor level. At ground floor there is a bedroom window in the projecting wing and sliding glazed doors for the majority of the width of the main part of the rear main elevation. These doors lead onto a raised terrace which is also accessed from the bedroom and snug.
18. The adjoining property 'Bramley' is located relatively close to the common boundary and has a window at first floor level in the flank elevation facing towards the appeal site.
19. Although the upper floor dormer window for the proposed property is some 18m from the flank wall of 'Bramley' the closest bedroom window is only just over 9m, the raised terrace area is some 12m away and the ground floor glazed doors are in the region of 16m distance. There is little in the way of landscaping to mitigate the effects of overlooking and views would be available from the first floor flank window of 'Bramley' into the proposed property. There would also be clear views into the rear private amenity space. Given the short distance and orientation associated with the nature of the use of these rooms I conclude this would result in material harm to the privacy that would be provided for the future occupiers of the proposed property. The shape of the footprint of the building would afford some degree of protection in a small part of the terrace but significant areas would not be shielded or protected.
20. In terms of the effect of the development on the occupiers of 'Bramely', there would be a degree of mutual and reciprocal overlooking between the windows in the dormer structure of the proposed house and that of the window in the flank wall. There is limited intervening screening at this level and the 18m distance would not sufficiently mitigate the impact on privacy.
21. The orientation of the proposed property would mean that its main outlook was across and towards the rear of 'Bramley'. This would leave the area directly adjacent to the house and to the side reasonably private. Furthermore many of the windows of the proposed house are at ground floor level and there is an

intervening fence which would mitigate any impact and reduce the impact on privacy in respect of the garden area and ground floor of 'Bramley'.

22. For the reasons given above I conclude that the proposed development would result in material harm to the living conditions of the occupants of the adjoining property, 'Bramley', and it would not provide acceptable living conditions for future occupants, with particular reference to privacy. Consequently it would conflict with policy DBE3 of the CDLP which seeks high quality development and amongst other matters seeks to protect the privacy and amenity of neighbouring buildings and future occupiers. This is consistent with the Framework which at paragraph 17 advises that the planning system should always seek a high quality design and good standard of amenity for all existing and future occupants of land and buildings.

Conservation Area

23. The appeal site is located within the Amery Court Conservation Area. The site is therefore within a designated heritage asset in the context of the Framework. The significance of a heritage asset is the value of that asset to this and future generations because of its heritage interest. That interest may derive from archaeological, architectural, artistic or historic interests. Significance derives not only from a heritage asset's physical presence but also from its setting.
24. The Conservation Area is principally focused on two grade II listed buildings Amery Court and Arbele. These are situated in the small cluster of farmsteads that arose at the junction of three historic tracks, including Chapel Lane. The Conservation Area includes parts of the wider countryside including the alignment of the three tracks and the buildings of Amery Court and Arbele house for their architectural and historic significance. That significance in part derives from the evidential value of the evolution of the settlement pattern in the area, the proximity to the access tracks the setting in the open countryside surrounding and the proximity to Blean.
25. In the context of this appeal the newer detached properties along Chapel Lane and the large modern agricultural buildings detract from that significance but are part of the existing character. The intensification of development on one of the modern plots would result in an increasing urbanisation of the location. There would be a consolidation of the built form in the area and this would reduce the rural character and appearance of the lane. I have already concluded that the property would be readily visible in the lane particular the upper levels and roof. Whilst it maybe that this would not materially harm the general character of the area where there is already a degree of built form, that is not the same test as for the conservation area. The conservation area seeks to protect the buildings layout and relationship to ensure a proper understanding of the historic development can be maintained. With increasing urbanisation there is harm to the rural nature of the area and harm arising from the further consolidation of buildings in the area. This undermines the rural context of the conservation area. The proposal would therefore not preserve the appearance or character of the conservation which would therefore be harmed.
26. The harm that would arise, would in the context of the Framework be less than substantial, as only a small section of the conservation area would be affected and that affect would be relatively contained. Paragraph 134 of the Framework

requires that I balance this harm against the public benefits of the proposal, including securing its optimum viable use. The proposal is for the development of the garden area of an existing house the question of viable use is therefore not directly relevant and has not been questioned. The public benefits deriving from the scheme would include the provision of an additional dwelling, the economic benefit associated with additional spend from future occupiers, the economic benefit associated with carrying out the works. Given that these relate to a single dwelling unit I do not afford them significant weight and when weighed against the considerable importance and weight that I give to the harm to the conservation area they do not outweigh that harm.

27. The listed buildings of Amery Court and Arbele House are set reasonably distant from the appeal site and there are intervening buildings with significant mass and bulk between. The plots boundaries and other features interrupt any visual or contextual relationship and there has been no argument put to me that the land of the appeal site is important in the context of the setting of these buildings. In the context of the setting of those listed buildings I conclude that the proposed development would not be within the setting of the buildings and would therefore not affect the setting of the listed buildings which would therefore be preserved.
28. For the reasons given above I conclude that the proposed development would not preserve the character or appearance of the Amery Court Conservation Area. Consequently the proposal would conflict with policy HE6 of the CDLP which seek to preserve or enhance the special architectural or historic character or appearance of conservation areas. This would also conflict with the advice in the Framework to recognise heritage assets as an irreplaceable resource and conserve them in a manner appropriate to their significance.

Special Protection Areas

29. The appeal site falls within the Thanet Coast and Sandwich Bay Special Protection Area and the Thames, Medway and Swale Special Protection Area. Natural England have advised that Strategic Access Management and Monitoring mitigation would be appropriate. The concern relates to the additional pressure arising from the increased population from housing and residents increased recreational activity in the areas resulting in additional disturbance to birds nesting and breeding areas.
30. Policy LB5 of the CDLP indicates that no development will be permitted which may have an adverse impact on the integrity of an SPA or Ramsar site, alone or in combination with other plan or projects. This policy reflects the statutory requirements of the Habitat Regulations and as such I give it significant weight.
31. The Council addresses these matters of increased recreational pressure through a requirement for a financial contribution towards access monitoring, education, wardens etc organised through Strategic Access and Management and Monitoring. This is not infrastructure and is therefore not caught by the Community Levy restrictions on pooling.
32. The appeal site falls within the zones of influence surrounding the SPAs and therefore a SAMM contribution would be required and would mitigate any adverse impact that would arise. The appellant has provided a Unilateral Undertaking for a financial contribution, as identified by the Council. The contribution towards the SAMM would provide adequate mitigation for the

recreational use of the SPAs and would mitigate any adverse effect, either alone or in combination, and therefore no adverse effect would arise and no appropriate assessment under the regulations would be required. The contributions would be necessary and are proportionate and appropriate given the nature of the use.

33. For the reasons given above I conclude that the proposed development, with the mitigation secured by the unilateral undertaking, would not result in a likely significant effect on the SPAs. Consequently it would comply with the habitats regulations, Policy LB5 of the CDLP.

Other matters

34. The Council has recently adopted the CDLP which was found sound following examination. The Council within the CDLP sets out its housing land supply position phased requirement and strategic allocations and applied a 5% buffer. With the recent examination and adoption of the plan there is no substantive suggestion before me now that the Council cannot demonstrate a 5 year housing land supply and the appellant's previous concerns were expressed prior to receipt of the Inspectors report and formal adoption of the CDLP.

Overall conclusions

35. The proposed development would not preserve the character and appearance of the Amery Court Conservation Area, would result in material harm to the living conditions of adjoining occupiers and would not provide adequate living conditions for future residents. In these matters the development would conflict with the relevant policies in the development plan and conflict with the environmental and social roles of sustainable development. Whilst I have concluded that there would not be conflict with policies related to the Special Protection Areas and that the site would not conflict with the development plan in the context of a suitable location for development these are not matters that positively support the proposal. Overall I conclude that the development would conflict with the development plan as a whole and as it would result in environmental harm, through harm to the conservation area, and social harm, through harm to living conditions, it would not amount to sustainable development.
36. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR