
Appeal Decision

Site visit made on 11 June 2019

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/Z2260/W/19/3221920

Land adjacent to 150 Monkton Street, Monkton CT12 4JJ

- 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 Harry Ling against the decision of Thanet District Council.
 - The application Ref F/TH/18/0897, dated 22 June 2018, was refused by notice dated 13 December 2018.
 - The development proposed is erection of 9 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The County Council responded to the consultation for the application and advised that the appeal site is some 4.3 kilometres from designated European sites. Whilst this matter was not referred to in the Council's decision notice, I am required by law to consider the effect of the proposal on the integrity of designated European Sites, and I shall return to this matter later in my reasoning.

Main Issues

3. The main issues are the effect of the proposal on;
 - (i) the character and appearance of the area;
 - (ii) heritage assets; and
 - (iii) the integrity of designated European sites.

Reasons

Character and appearance

4. The appeal site is located in Monkton Village, it is outside of the village confines and sits within a Landscape Character Area. It has existing residential development on either side when viewing it from the street, including Field House and Field cottages which are listed buildings. On the opposite side of the highway is Vicarage House which is a Grade II listed building, and additional modern residential development beyond Vicarage House set within Vicarage Gardens.

5. The appeal site at present is heavily screened by existing boundary planting and mature vegetation, restricting views through it across to towards the Wantsum Channel North Shore and Stour marshes. Beyond the site itself is the landscape is broken up by copses of mature trees and boundary hedgerows. This natural, gradual growth within the landscape has slowly eroded the open views that would have once been readily enjoyed from within the site. Nevertheless it is allocated as one of 6 village gaps which are recognised as breaks in the built form that contribute to the character and amenity of the village, and saved Policy R2 of the Local Plan identifies that such sites are not suitable for development.
6. Some of the shrubs and young trees along the front boundary with the road would be removed which would enhance the visibility through the site towards the channel and marshes. A comprehensive scheme to provide additional planting through out the site, to include the boundaries and central area, would be a good opportunity to carefully shape the character of the site and ensure that it would actively enhance and reinforce the rural quality of the area and this piece of land.
7. Whilst the introduction of built form within this site would conflict in principle with the development plan, it is clear that the uninterrupted views through towards the marshes and the channel, and the contribution to the landscape area that the site may have historically made, have been eroded through the passage of time and the natural evolution of the surrounding landscape, including the vegetation and trees within the site boundaries. The dwellings would be carefully orientated to allow visual gaps which would enhance long reaching views of the countryside as it now appears and so would create a permeable development.
8. In addition there are a number of functional gaps, one being close to the site, which allow these long views, and provide open and accessible space in which to appreciate the landscape. As such I do not consider that the development proposed would result in harm to the overall character of the site or the surrounding area.
9. The built form along Monkton Road is primarily linear, however a number of secondary developments have been established to the rear of the street frontage. The appeal proposal would be orientated with the dwellings located to face a generous central green space within the site, accessed via two entrances linking the development to Monkton Road with a pedestrian footpath along the front boundary. This secondary enclave pattern of built form would not be out of character with the general grain of development that has evolved within the village. Furthermore, it would create an engaging and inclusive layout, providing a level of space between each section of development to retain a level of permeability and provide views through the site to the wider landscape beyond.
10. Due to the natural evolution of the village it has a mixed and somewhat eclectic character and there is no singular dominant form of development or material. The dwellings proposed in the scheme before me would be based around a mixture of four designs, all of which would reflect the existing built form and materials within the village and as such the design qualities of the proposed dwellings would sit comfortably within the built character and make a positive contribution to the range of housing stock.

11. The proposal would conflict with Policies CC1 and R2 of the Thanet District Local Plan due to its location within the countryside and designation as a village gap. However, due to the natural evolution of the wider landscape I find that the proposal would not conflict with the overall aim of Policy CC2 as it would not damage the setting of the Wantsum Channel or long views of the adjacent marshes.
12. Monkton is a small village which provides a primary school, village hall, church and public house, it is less than 2 miles from Minster which provides a wider range of services and facilities. The proposal would provide housing in a location that is well connected, and therefore whilst I acknowledge the conflict with the development plan in respect of policies CC1 and R2, I have found that the proposal would not result in harm to the character and appearance of the area. Furthermore, the Framework provides that development that would support the use of under-utilised land should be supported if it would help to meet identified needs.

Effect on heritage assets

13. The appeal site would have historically functioned as part of the setting to Vicarage House which is a large and prominent Grade II listed building in a slightly elevated position looking out over the site towards the marshes. The openness of the appeal site and the general absence of built form would have enhanced the dominance of the listed building and reinforced its place within the street scene. Whilst the setting has been slightly domesticated with the introduction of built form at Vicarage Gardens, the appeal site currently enhances the openness of the setting of the listed building due to the absence of built form to the front of the Vicarage which continues to reinforce the setting of the listed building and its dominance within the street scene.
14. The proposed buildings would be located to wrap around the appeal site, and the use of a central green space would provide an element of openness to the setting of the listed building. However, the introduction of built form on a currently open site, even when carefully orientated around a green space, would essentially hem the Vicarage in. The listed building would no longer be dominant within the wider landscape but would be swamped by residential development.
15. No 148 Field Cottages and Field House are Grade II listed buildings in close proximity to the appeal site on the south side of Monkton Street which are experienced as part of the well-established built form along Monkton Street. Whilst the additional development would affect the setting of these buildings, they are experienced within existing residential development. Plots 1 and 2 would be set back from the main highway so that views of these buildings would be maintained, and the built form in itself would not have a harmful impact on the setting of these buildings as they are currently enjoyed as part of an active, bustling, road frontage.
16. In respect of the listed buildings at Field Cottages and Field House, I consider that the proposal would not result in harm to the setting of these listed buildings. The Parsonage, Lantern Cottage and No 153 Monkton Road have limited visual links to the site. It does not at present contribute to the setting of these assets and the proposal would not have a harmful effect on these buildings.

17. In respect of the listed building known as Vicarage House, I find that the proposal would result in some harm to the setting of the listed building. Taking into account the increase in development near to the asset, and the erosion of openness of its setting due in part to the overgrown nature of the front boundary of the appeal site, I consider this harm to be less than substantial however I attach significant weight to that harm. Balanced against this harm is the contribution of 9 dwellings to the supply of housing within the district, located within a well-designed and carefully considered scheme. In these particular circumstances I consider that there are public benefits that would outweigh the less than substantial harm to the heritage asset.

Effect of the proposal on European sites

18. The evidence identifies that the appeal site is located approximately 4.3 kilometres from the Thanet Coast and Sandwich Bay Special Protection Area (SPA), and the Ramsar and Thanet Coast SSSI (SSSI), which are European designated sites.
19. The proposal would introduce 9 additional dwellings. Whilst I accept that the site itself provides a green space, and that there are green areas located within and around the village, the site's distance from the SPA and SSSI means that there is a reasonable likelihood that they would be accessed for recreational purposes by future occupants of the development. Although this may be minimal of itself, a significant effect would occur, particularly when considered in combination with other residential development in the surrounding area.
20. In these circumstances the Habitats Regulations advise that permission may only be granted once the competent authority has ascertained that the proposal will not affect the integrity of a European site. In reaching a decision, as the competent authority, I am able to consider any conditions or other restrictions which could secure mitigation and so enable it to be ascertained that the proposal would not affect the integrity of the site. I am aware that the consultation response from the Kent County Council Ecological Advice Service referred to the North Kent Strategic Access Management and Monitoring Strategy (SAMM), and that this strategy is endorsed by Natural England. However, there is no method before me of securing any restrictions or conditions in accordance with the strategy.
21. In this case, on the evidence before me, I consider that there is a potential for recreational disturbance to the SPA and SSSI through additional activity associated with the residential development, which would affect the integrity of the European sites. Furthermore, the lack of any acceptable mitigation means that the proposal would affect the integrity of the European Sites. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no alternative solutions have been put forward for my consideration.
22. The evidence before me indicates that a priority species or habitat on the sites would be adversely affected by this proposal. In the absence of any mitigation or alternative solutions I am required to consider whether there are any imperative reasons of overriding public interest that would justify allowing the scheme despite the effect on the integrity of the European sites. In this case the proposal would provide 9 dwellings and would contribute to a housing demand in close proximity to services and public transport links. For the reasons set out in the first main issue of this decision letter, the development would sit comfortably within its surroundings and would not lead to harm to the

setting of nearby designated heritage assets. However, these considerations are not, even cumulatively, sufficient to amount to an 'imperative reason of overriding public interest'. Consequently, having regard to the Habitats Regulations, permission must not be granted for the development proposed. In these circumstances the presumption in favour of sustainable development, set out in paragraph 11 of the Framework, does not apply.

23. I therefore find that the proposal would result in harm to the integrity of the designated European sites and would have an adverse effect on these sites without any mitigation.

Other matters

24. I note that there are objections to the proposal from interested parties. However, as the appeal is failing, I have not considered them further.

Planning Balance and Conclusion

25. The Framework is a material consideration in planning decisions. Paragraph 11 states that where policies which are most important for determining the application are out of date, permission should be granted unless specific policies within the Framework provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It is the appellant's case that paragraph 11d of the Framework is engaged as the Council cannot demonstrate a five year supply of land for housing.
26. However, the first step is to consider whether there are specific policies in the Framework that indicate that development should be restricted. Paragraph 177 of the Framework is clear in advising that the presumption in favour of development does not apply where a proposal is likely to have a significant effect on a SPA, either alone or in combination with other projects, unless an appropriate assessment has concluded that it will not adversely affect the integrity of the site. For the reasons set out above, I have found that the proposal would be harmful to the integrity of the protected sites and no mitigation measures have been put forward to address the harm. This provides a clear reason for refusing the appeals proposal.
27. Although I have found that the proposal would be acceptable in terms of its effect on the character and appearance of the area, and the setting of nearby heritage assets, this would not overcome the harm in relation to the SPA and SSSI. Accordingly, for the reasons above, I conclude that the appeal should be dismissed.

J Ayres

INSPECTOR