



Appeal Decision

Site visit made on 17 September 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2019

Appeal Ref: APP/X2220/W/19/3226862

'The Longview' - Land to the South of Old Dover Road, Capel-le-Ferne, Dover CT18 7HN

- 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 Perren against the decision of Dover District Council.
 - The application Ref 19/00041, dated 11 January 2019, was refused by notice dated 21 March 2019.
 - The development proposed is the erection of a two bedroom residential dwelling on a brownfield site immediately adjacent to the settlement boundary of Capel-le-Ferne.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant name given on the appeal form is different to the applicant name given on the planning application form. The appellant has confirmed the appellant name is as stated on the appeal form and so I have used that in the heading above.
3. Since the application was submitted to the Council the National Planning Policy Framework (the Framework) has been revised. Both main parties have had an opportunity to comment on any relevant implications for the appeal and any comments received have been taken into account in my reasoning.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the site's location within an Area of Outstanding Natural Beauty (AONB) and on a Heritage Coast.

Reasons

5. The appeal site is in the countryside, outside of but adjacent to the settlement of Capel-le-Ferne. It is a long and narrow overgrown clifftop plot on the Dover-Folkstone Heritage Coast. It is also within the Kent Downs AONB and a public right of way runs around two sides of the site, forming part of a coastal path. Therefore, the appeal site is particularly conspicuous within an important, visually sensitive, naturally beautiful, green and dramatic landscape.

6. A boundary wall separates a long side of the appeal site from the adjacent public right of way so this is clearly seen up close. But viewed from further away on the coastal path the wall is barely seen and the appeal site generally blends into the verdant landscape.
7. The appeal proposal would result in a striking, angular building rising out of the landscape above surrounding vegetation. Whilst it would be set down into a valley it would be clearly seen from either direction along the well-trodden coastal path whether up close or from across the valley. In its verdant setting the proposal would appear incongruous and alien, particularly as a result of its long side profile. I am not satisfied its materials would mitigate this impact as its shape and form would draw attention to it in this Heritage Coast context which is by definition an undeveloped area. It would therefore have a harmful visual effect.
8. From the coastal path to the west the proposal would be seen against a backdrop of existing suburban dwellings in Capel-le-Ferne. But these are generally set much further back and are within the settlement boundary. The proposal would appear as an intrusion of development into a relatively unspoilt coastal landscape. I realise that other buildings exist close by, including Eagles Nest Chalet and Eagles Nest Cottage. But I have limited information on how or when these came to exist and so I cannot be certain they were considered in the same planning policy context as the proposal before me or that their existence is a good enough reason for allowing this appeal for an additional dwelling in this landscape.
9. The boundary wall and area of hardstanding on the appeal site, together with the evidence, indicate the site may be previously developed land as defined in the glossary of the Framework. However, I have limited information on what the site may have been previously developed for. The proposed development would be significantly more prominent and obvious than any existing development on the site and so I am not satisfied the reuse of the site is a good enough reason to allow the appeal in light of the harm identified above. Some fly tipping was evident at the time of my visit but I am not satisfied this is a good enough reason for allowing the appeal either when there are other ways in which this may be addressed.
10. The South East Design Review Panel has reviewed a previous iteration of development proposed on the site. Paragraph 131 of the Framework requires that great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. But the Framework also requires, in paragraph 172, that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
11. I appreciate the appellant's desire to produce a striking modern building on the site and that other dwellings seen in the wider area exhibit undistinguished architecture. I have no doubt the proposed design is therefore outstanding and innovative, particularly as a result of its unusual shape and layout. But in this case, I am not satisfied the proposal fits within its surroundings, noting these include AONB and Heritage Coast. In this case I give more weight to their conservation and enhancement than to the proposal's design which in my judgement would constitute a significant intrusion of built form into what is

currently a relatively undeveloped area. The design therefore is not a good enough reason to allow the appeal in light of my findings above.

12. My attention has been drawn to Martello Towers, pill boxes, gun emplacements, sea defences and seafront groynes. The appellant has stated that the design proposal was prepared to reflect some of the language of these earlier interventions. But I am not satisfied any of these structures provide sufficient justification for the appeal proposal in light of the harm I have identified above.
13. I conclude the proposal would harm the character and appearance of the area, including the Kent Downs AONB and the Dover-Folkstone Heritage Coast. Accordingly it would not comply with Policies DM 1, DM 15 and DM 16 of the Dover District Local Development Framework Core Strategy adopted February 2010 (the Core Strategy), Policy CO5 of the Dover District Local Plan adopted 2002 (the Local Plan) or the natural environment policies of the Framework including paragraphs 170, 172 and 173.
14. Together these resist development outside of settlement boundaries, which would adversely affect the character or appearance of the countryside, that would harm the character of the landscape, or that would affect the scenic beauty of a Heritage Coast. Furthermore, I am not satisfied that a coastal location is essential for a new dwelling or that no suitable alternative site exists, to engage these clauses of Policy CO5. This policy is applicable to the proposal given the site is within an area defined as Heritage Coast.

Other Matters

15. Concern is expressed that the Council added an additional reason for refusal compared with previous iterations of development on this site. But the way in which the Council handled previous applications is not a matter for me to consider in the context of this appeal, which I have determined on its individual merits.
16. A comparison has been made between the appeal site and greenfield land within an AONB allocated for development within the development plan. The appellant considers the proposal would have a significantly reduced impact on the AONB than this allocation. But this does not make this proposal acceptable, nor does the fact the proposal may have been reduced in massing since an earlier iteration.
17. I appreciate the proposal may be acceptable in terms of its effect on living conditions, highways, access, parking and the adjacent public rights of way. But these are neutral points rather than benefits of the scheme.
18. A unilateral undertaking has been provided committing to the proposal being a self-build dwelling occupied by the appellant for 3 years. I have had regard to this as a material consideration but in my judgement this is not a good enough reason to allow the appeal given the harm identified above.
19. I appreciate the proposal would deliver benefits. They include a contribution to housing supply, ecological enhancements, a sustainable means of construction, an energy efficient design, economic benefits during construction and a proposal to resurface the existing footpath. I have had regard to the benefits and afforded them weight in my consideration of this appeal.

20. The Council considers it has a 5 year housing land supply. This is disputed by the appellant who considers the development plan is out of date, is silent on the issue of self-build housing and that paragraph 11 (d) of the Framework is therefore engaged. That being the case, in accordance with paragraph 11 (d) (ii) permission should be granted unless 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.
21. However, due to paragraph 11 (d) (i), permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Footnote 6 in paragraph 11 identifies that such policies include those in the Framework relating to AONBs and Heritage Coast. As I have found harm in respect of both of these the 'tilted balance' (as it is referred to by the appellant) of paragraph 11 (d) (ii) does not apply. Instead paragraph 11 (d) (i) applies and there are clear reasons for refusing the development proposed, despite the benefits of the scheme including those identified above.
22. I have had regard to the site's location in relation to the Thanet Coast and Sandwich Bay Special Protection Areas and associated Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. The Council has identified that housing development can have a significant effect on these sites as a result of the disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay. As any consideration of this matter would not affect my finding on the main issue, and the appeal would in any case be dismissed, it is not necessary for me to address that matter any further as part of this decision.

Conclusion

23. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR