
Appeal Decision

Site visit made on 11 November 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2019

Appeal Ref: APP/J2210/W/19/3233681

7 Underwood Close, Canterbury, Kent CT4 7BS

- 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 F Dickmann against the decision of Canterbury City Council.
 - The application Ref 18/02413, dated 28 November 2018, was refused by notice dated 28 February 2019.
 - The development proposed is described as 'single storey detached dwelling with 2No car spaces, land to rear 7 Underwood Close – replacement garage for 7 Underwood Close'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with the appearance, landscaping and scale reserved for future consideration. The layout of the proposal and its access are matters advanced for consideration. I have assessed the proposal on this basis. During my site visit I took the opportunity to view the appeal site from Nos 4 and 8 Underwood Close, as invited to by the occupants beforehand. The merits of the case were not discussed.

Main Issues

3. The main issues in this appeal flow from the Council's reasons for refusal and the submissions of interested parties, which the appellant has commented upon, and can be summarised as the effect of the proposed development on:
 - The living conditions of the occupants of 4 Underwood Close (No 4), with particular reference to noise and disturbance;
 - The master planning of Site 10, a strategic allocation; and
 - The character and appearance of the area.

Reasons

The effect on the living conditions of the occupants of No 4

4. The appeal site encompasses part of the rear garden of 7 Underwood Close, which does not appear to be intensively used, being laid mainly to lawn with a vegetable plot and small patio. Other than the appeal property, rear gardens in the near vicinity are not large and tend to be located next to one another in a conventional suburban layout. An exception to this is the parking area serving

No 4, which is at the rear of the gardens at 5 and 6 Underwood Close.

However, these gardens are protected by a brick wall. As such, the rear private amenity spaces serving properties in the estate, such as that at No 4, generally appear to be reasonably tranquil and are therefore locations where the sound of vehicular movements is unlikely to be overly apparent.

5. The appeal scheme would introduce a parking and turning area directly to the rear of No 4. It would therefore be near the external amenity space and yoga studio at that property. The noise from vehicle engines starting and turning over, and cars pulling into and out of the proposed parking spaces, would be at close range to the area directly outside the rear elevation of No 4. There would also be disturbance from the glare of headlights. The noise and disturbance would therefore be very apparent in the most sensitive part of the outdoor amenity space of the neighbouring property, as well as the first-floor bedrooms, resulting in a significant magnitude of change from what is currently a relatively tranquil and relaxing space. This would be an unreasonable impact.
6. In coming to this view, I have carefully considered the analysis of the Council's Planning Officers, who did not identify harm in respect of this matter. However, their conclusions were made 'on balance'. I have concluded as I have for the reasons given, with this being based on the evidence before me and what I observed during my site visit. Thus, the appeal scheme would significantly harm the living conditions of the occupants of No 4 placing it contrary to Policies DBE1 and DBE3 of the Canterbury Local Plan (LP). These policies seek to secure development that safeguards and improves the quality of life of residents and considers the amenity of neighbouring buildings.

The effect on a strategic allocation

7. The appeal site is part of Site 10, identified in Policy SP3 of the LP as a strategic allocation for 310 homes. Policy SP3 is clear in stating that a planning application for development of all, or part, of a strategic site shall be accompanied by a comprehensive masterplan. The appellant only has control over a very small component of the allocation and has not therefore, produced a comprehensive masterplan. This is contrary to Policy SP3.
8. The appellant was apparently unaware that his land was going to be allocated as part of Site 10 and has had no discussions with the land promotor, who would not be able to deliver development at the appeal site without the appellant's agreement. Therefore, the appellant has sought to demonstrate on the site layout plan how the proposed bungalow could be developed alongside part of the wider allocation. In this respect it demonstrates that there could be an adequate separation distance with the existing hedgerow retained. Moreover, a design brief, concept statement or similar document has not been submitted that suggests the appeal site is a critical part of the allocation.
9. However, the appellant's approach is speculative and does not demonstrate that the appeal scheme would not present an undesirable constraint on the delivery of at least part of the allocation. It would be difficult to do this without some input from the land promoter. The approval of a bungalow at the appeal site is likely to have some impacts on the configuration of the masterplan. Thus, a piecemeal approach to the land allocation would be disadvantageous. That said, I accept that the appeal scheme may, as the appellant suggests, have no significant impact on how the wider allocation is envisaged to come

forward, but substantive evidence to this effect has not been provided, such as evidence of attempts to discuss the matter with the adjoining land promoter.

10. However, the Council has not really articulated how the appeal scheme would undermine the master planning and delivery of the allocation. Thus, there are some similarities with another appeal decision¹, where an Inspector found that the Council had been unpersuasive in demonstrating the scheme before him would undermine the satisfactory master planning of an allocation. He therefore only afforded limited weight to the conflict with the relevant policies. This is a finding that can equally be applied to the appeal scheme before me.
11. In conclusion, the appeal scheme would be at odds with the clear requirement in Policy SP3 of the LP that strategic allocations should be delivered following a comprehensive masterplan. However, the Council has failed to demonstrate that the appeal scheme, which is a very small component of Site 10, would likely prevent the positive master planning of the remainder of the allocation. A conflict with a policy in the development plan cannot be disregarded. But given the evidence before me I afford the conflict limited weight in this instance.

The effect on the character and appearance of the area

12. The appeal scheme would be located behind No 7 in a location broadly characterised by frontage development and in this respect, it would not reflect the pattern of development and thus the guidance in Paragraph 3.2 of the Council's Supplementary Planning Document *Guidelines to Control Residential Intensification*. It could therefore appear somewhat out of place, particularly as the existing garage at No 7 would be removed thereby creating a discordant gap in the continuity of the street scene.
13. However, the impact could be softened by the appellant's intention to construct a single storey building. Although this is not a firm proposal it would, if pursued, result in the development having a limited presence in the street scene of Underwood Close and in views from neighbouring gardens. The dwelling would also be set back a notable distance from Underwood Close and screened in public views by existing dwellings. The spacious plot would also provide ample room for landscaping that could soften the development, particularly the access drive. There would also be an opportunity to use hard landscaping similar to that used for the boundary walls and driveway surfaces elsewhere in the estate. This would provide some visual continuity. On balance, the tandem arrangement of the proposal need not harm the character and appearance of the area.
14. The appeal scheme would expand development into an area that is currently open and seen in a semi-rural context being sandwiched between adjoining houses and a field. However, the field forms part of the strategic allocation that I have already referred to. I have seen nothing to suggest the allocation is unlikely to be delivered and therefore the context of the appeal site is likely to change significantly, with it become more built up and suburban. Any impact on the semi-rural character of the area needs to be considered accordingly. Even if the allocation did not materialise, the appeal scheme would be seen in the context of 2-4 Underwood Close as much as the field and therefore it would not appear strident. I therefore conclude that the appeal scheme would not

¹ APP/Z2260/W/17/3178576

harm the character and appearance of the area and therefore a conflict with Policy DBE3 of the LP, in so far as it relates to this matter, would not occur.

Other Matters

15. Paragraph 11 of the National Planning Policy Framework (the 'Framework') states that in situations where a local planning authority is unable to demonstrate a five year housing land supply, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
16. My attention has been drawn to a reasonably recent appeal decision² where the Inspector concluded the Council was only able to demonstrate a housing land supply covering a period of around 4.7 years. This conclusion was largely based on a finding that many of the sites listed by the Council as being deliverable were not. The Council has provided additional evidence to suggest the disputed sites are in fact deliverable and that the housing supply position is more likely to be about 6.72 years.
17. Notwithstanding the foregoing, even if I were to adopt the approach of the previous Inspector and find that the Council were unable to demonstrate a five-year housing land supply, the adverse impacts of the appeal scheme would still significantly and demonstrably outweigh the benefits. This is because the modest size of the development, involving the construction of only one dwelling built to modern standards, would result in limited benefits to the construction industry, the local economy, the supply and choice of housing and from council tax revenue.
18. It is unlikely the conflict with Policy SP3 would have significantly and demonstrably outweighed these benefits. However, the adverse impacts, when considered cumulatively, would. Particularly as there would be avoidable harm to the living conditions of the occupants of No 4. An impact that would be contrary to Policies DBE1 and DBE3 of the LP. These policies are consistent with Paragraph 127(f) of the Framework and therefore any conflict with them can be afforded significant weight.
19. Other various concerns have been raised by interested parties, including reservations over pollution and the impact on highway safety and the living conditions of the occupants of Nos 7 and 8 Underwood Close. I would need to see further evidence before I was satisfied on the latter point in particular. However, given my findings above it has not been necessary for me to address these matters as my findings in respect of these points would not alter the outcome of the appeal, which has failed on the first main issue.

Conclusion

20. The proposed development would be contrary to the development plan and there are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

² APP/J2210/W/18/3216104