
Appeal Decision

Site visit made on 4 December 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/J2210/W/19/3235656
19A Hollow Street, Chislet, CT3 4DS

- 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 Mrs Margaret McCleave against the decision of Canterbury City Council.
 - The application Ref 18/02422, dated 21 May 2019, was refused by notice dated 5 August 2019.
 - The development proposed is a single-storey building for use as holiday let.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made on an application form for outline planning permission. However, no matters were reserved for determination at a later stage and the design and access statement accompanying the application describes the application as being for full planning permission. The Council registered the application as a full application. I have, therefore, considered this appeal on the basis that the proposal is for full planning permission.
3. The appellant has provided an extensive description of the development. The Council amended this to "Proposed single-storey building for use as holiday let" and I note that the appellant uses this description on their appeal form. I have therefore used the amended description provided by the Council and I have determined the appeal on this basis.
4. The declaration on the application form provides both an initial date and an amended date. I have used the amended date of 21 May 2019 as this reflects the later date at which other information was entered onto the form.
5. The appellant has submitted an Agreement under Section 106 of the Town and Country Planning Act 1990. I have taken this Agreement into account in my deliberations.

Main Issues

6. The main issues are:-
 - Whether the proposal would be a suitable location for holiday accommodation;

- The effect of the proposal on the character and appearance of the site and the surrounding area which falls within an Area of High Landscape Value, with particular reference to the Chislet Conservation Area, which is a designated heritage asset; and: -
- The effect of the proposal on the Thanet Coast and Sandwich Bay Special Protection Areas, which are protected European Sites.

Reasons

Suitable location for holiday accommodation

7. The appeal site is located just outside the village of Chislet, to the south of Hollow Street. Chislet is a predominantly linear settlement fronting Hollow Street, and Church Lane. In the vicinity of the site it is a narrow rural road without segregated footway provision and lacking street lighting. Around the site lies open countryside and the site itself is mainly scrubland, containing some trees and shrubs, enclosed by low hedges, walls and fences.
8. The proposal lies outside of any settlement where appropriate residential development would be supported by policies within the Local Plan and is in a rural setting.
9. The Canterbury District Local Plan -2017- (the Local Plan) supports the development of rural tourist accommodation, subject to certain criteria being satisfied. These include the requirements that the nature and scale of the proposal is in keeping with the rural surroundings; and that, in the case of new builds, the proposal is related to an existing settlement, and the applicant has considered accessibility by a range of transport modes.
10. Chislet is a small community and does not contain any services or facilities, other than a church, that would cater for the day-to-day needs of holiday makers. The nearest settlements with a range of facilities to cater for such needs are some distance away in larger settlements such as Herne or Canterbury.
11. The nature of the local roads with their lack of lighting and footways, vehicular speeds and the distances involved, are such that they would deter pedestrians and cyclists, particularly after dark, with children or during inclement weather. Thus future occupants of the site would be almost totally reliant upon the private car for their day-to day needs. There are no bus services connecting to nearby service centres and so I have little evidence before me to suggest that there would be any realistic alternative to the use of the private car.
12. The National Planning Policy Framework -2019- (the Framework) recognises that sustainable transport solutions will vary between urban and rural areas and that rural development in smaller settlements can enhance or maintain the vitality of rural communities. However, the appeal site lies in an area where nearby settlements are generally small and only provide limited services requiring, in all likelihood, a trip into the local town to satisfy their day-to-day needs. Thus, it could not be said that the development would contribute meaningfully to the vitality of villages outside the town which would support development under paragraph 78 of the Framework.
13. Of the circumstances supporting isolated development of homes in the countryside given in paragraph 79 of the Framework, based upon the evidence

before me, the building is not of such exceptional design as to represent the circumstances where paragraph 79 (e) would justify development. No evidence has been submitted to suggest that the proposal would qualify under any of the other exceptions.

14. The appellant has suggested that design could be governed by condition. However, I have little substantive evidence before me to suggest that the basic form of the building could be altered by choice of materials or the incorporation of sustainability features to a degree where it would qualify as so exceptional in design terms as to justify the development.
15. There is no dispute that there is an existing vehicular access into the site or that this would have been used in the past. However, I have little substantive evidence before me to demonstrate that the frequency of vehicular access to the site by previous uses of the land would be similar to, or greater than, that of the proposal.
16. The appellant has stated an intention to provide transport using a small fleet of vehicles, both to and from the site for visitors on arrival and departure, and for daily tours or business trips. However, this facility is still reliant upon private motor vehicles. In practical terms there is little difference between the proposed provision and future occupiers using their own vehicles.
17. I therefore conclude that the site is not a suitable location for holiday accommodation. The proposal would therefore be contrary to Policy TV8 of the Local Plan, in as much as the proposal does not have access to a range of transport modes and is located away from services and facilities that would reduce the need for travelling by car.

Character and appearance

18. The site lies within Chislet Conservation Area (the CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a CA, special attention is paid to the desirability of preserving or enhancing the character or appearance of the area. In addition, Paragraph 193 of the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
19. The character and appearance of the CA in the vicinity of the site is defined by linear development fronting Hollow Street of varying design, with steeply pitched roofs with ridges running parallel to the street, set back behind modest front gardens, in a rural landscape of open fields.
20. The proposal would introduce a large, low pre-fabricated shed-like structure with a shallow-pitched roof, set well back from the road. The building, which would be clearly visible from Hollow Street and footpaths around the site, would, together with the residential paraphernalia associated with the holiday use, appear intrusive and incongruous within the landscape behind 17/19 Hollow Street. Furthermore, the shallow pitch of the roof would be out-of-keeping with roof forms in the area.
21. The design of the proposed scheme would neither reflect nor successfully contrast with the buildings in the immediate vicinity. The design does not seek to replicate the surrounding buildings, but in doing so has resulted in a design

- that would introduce a discordant element to the neighbourhood that is out-of-keeping with the CA. In this particular context that lack of conformity would be so significant as to amount to harm.
22. Furthermore, the site lies within an Area of High Landscape Value. For similar reasons to those above the proposed building would be an incongruous intrusion into the landscape and this incongruity would amount to material harm.
23. I therefore find that the development would cause material harm to the character and appearance of the Chislet Conservation Area and the Area of High Landscape Value contrary to Policies DBE3, HE1, HE6 and LB2 of the Local Plan, which, amongst other things, aim to ensure that new development protects the character, setting and context of the site and the way the development is integrated into the landscape; and protect, conserve and enhance the historic environment and the designated landscape.
24. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its design the appeal scheme would have a harmful impact on the CA insofar as it would neither preserve nor enhance the character or appearance of the CA. The proposal would not lead to the loss of any buildings that make a positive contribution to the character or appearance of the CA. As such, whilst material, I find that the harm would be less than substantial. Paragraph 196 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
25. The development would provide public benefits in terms of delivering additional holiday accommodation in support of local tourism, using previously developed land. There would also be likely minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to local shops and businesses. However, the longer term benefits would be mainly felt in the local towns and so taken together these benefits carry limited weight.
26. It is proposed that the design of the new dwelling would be of exceptional design and energy efficiency. However, I am not persuaded on the basis of the evidence before me that the dwelling would be so outstanding or innovative in terms of design and level of sustainability as to represent the circumstances where the Framework considers that great weight should be afforded to such development. Further, the Framework requires that even in such cases the development must fit in with the overall form and layout of its surroundings and so I attach only limited weight to this argument.
27. On the evidence before me I therefore conclude that the public benefit, in this case, has not been demonstrated to outweigh the less than substantial harm identified to the CA.

Effect on European Protected Sites

28. The site is located within the zone of influence of the Thanet Coast and Sandwich Bay Special Protection Areas (the SPAs), which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policies SP1,

SP6 and LB5 of the Local Plan seek to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. Within the Local Plan the Strategic Access Management and Monitoring (SAMM) Mitigation Measures for the coastal SPAs and Ramsar sites incorporates strategic mitigation measures to be delivered to avoid adverse impacts.

29. However, the Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage¹. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
30. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake the AA. The AA is required on a case-by-case basis to determine whether or not the project will adversely affect the integrity of the site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Other Matters

31. The appellant refers to a previous Planning Inspectorate decision relating to the site and implying that they can erect structures within the site. However, I have no details before me regarding this decision and so I am unable to determine whether, or not, this constitutes a fall-back position for the appellant. Similarly, the appellant implies an entitlement for the site to a new use, but no details are provided in support of this.
32. The appellants have provided an Agreement under Section 106 of the Town and Country Planning Act 1990. However, whilst that document undertakes to enter into a planning agreement in the future, following granting of planning permission, there are no specific measures identified within the document that would address the harm that I have identified above, and so the undertaking does not affect my decision.

Conclusion

33. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244