
Appeal Decision

Hearing Held on 14 November 2019

Site visit made on 14 November 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal Ref: APP/J2210/W/19/3221989

Former Westbere Butts Hotel, Island Road, Sturry CT2 0EZ

- 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 Rockhold (Westbere) Limited against the decision of Canterbury City Council.
 - The application Ref 18/01500, dated 17 July 2018, was refused by notice dated 2 November 2018.
 - The development proposed is demolition of existing buildings and erection of 13 residential dwellings, of which 4 will be affordable, with associated measures pertaining to access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has prepared a planning obligation which the Council has entered to address the Council's third, fourth and fifth refusal reasons relating to mitigating the impact on a Special Protection Area, securing the provision of affordable housing and securing the delivery of community infrastructure and open space to offset the impacts of the proposal. I shall return to the content of the planning obligation later.

Main Issues

3. The main issues therefore are,
 - (a) whether the site is a suitable location for the proposed development having regard to local and national planning policies,
 - (b) the effect of the proposal on the character and appearance of the area, and
 - (c) the adequacy of the proposed housing mix.

Reasons

Suitability of the location

4. The site presently comprises the vacant former Westbere Butts Hotel, a mainly two storey building sited close to the frontage, with areas of hardstanding for parking and gardens to the rear and sides of the building. It has an area of about 0.33ha and is located to the east of Canterbury, approximately 1 mile

from two local centres, Hersden to the east and Sturry to the west. The site is bounded by open land forming part of the Sturry-Hersden Green Gap to the north and west and by the extensive grounds of a car dealership to the east. The site fronts and gains access from Island Road, the busy A28 to its southern side. On the opposite side of the road is the junction with Pennington Close, a development of large detached two storey houses. Pennington Close is part of a larger mainly residential area forming the hamlet of Westbere.

5. Policy SP1 of the Canterbury District Local Plan (2017) (CDLP) is a strategic policy reflecting the presumption in favour of sustainable development contained in the National Planning Policy Framework (the Framework). Policy SP4 of the CDLP prioritises development in the main urban areas; new development in the rural settlements is limited and proportionate to their scale and position in the settlement hierarchy. In relation to hamlets, such as Westbere, it states that "*development will be permitted which specifically meets an identified local need*".
6. The appellant asserts that the appeal site is not within Westbere pointing to the boundary adopted by the Westbere Parish Council that restricts its domain to land on the southern side of the A28 and to post code differences between the northern and southern sides of the road. The Council contends that the site is within Westbere having regard to its close functional relationship with residential development to the southern side of the A28; it also points out that the former hotel contains the name 'Westbere'. As the CDLP does not define a boundary for Westbere there remains some ambiguity on whether the site is within Westbere.
7. If the site is deemed to be within Westbere, then according to Policy SP4 development should specifically meets an identified local need. Supporting paragraph 1.48 to Policy SP4 states, "*the Local Plan should also be sufficiently flexible to respond to identified local needs, where this is supported by the relevant Parish Council, or where appropriate, community forum*". At the Hearing, the Council confirmed that a rural needs assessment for Westbere had not been undertaken, that there is no timetable for the assessment and that the Parish Council would take a lead in this. If such an assessment were to be undertaken there is some doubt that Westbere Parish Council would comment on the site since it is outside their declared boundary.
8. If the site is deemed not to be in Westbere, then according to the hierarchy in Policy SP1, the site would be in the countryside. The Council contend that the site would be subject to Policy HD3 of the CDLP, which promotes affordable housing on rural sites outside of settlement confines; as the proposal contains more than 30% market housing, it would not be in accordance with this policy. The site would also be subject to Policy HD4 regarding new dwellings in the countryside, a policy that reflects the exception categories to isolated homes in the countryside set in Paragraph 79 of the Framework. The proposal would not accord with any of the exceptions listed in Policy HD4 for new dwellings.
9. Whether or not the site is within Westbere, it is clearly close to or on the fringe of the settlement. It is also a large brownfield site on a major road. There is no disagreement between the parties that the site constitutes "*previously developed land*" as defined in the Framework. The existing building is conspicuous from the road and is in a poor condition. Given the absence of an identified local need it is reasonable to consider other uses including housing

for which there is a recognised general need in local and national planning policies. The appellant has conducted a marketing exercise to ascertain interest in the site for a variety of uses. Other than a possible expansion of the adjacent car dealership on to the site, on which dialogue commenced, the exercise did not indicate a viable alternative use for the site than housing.

10. Paragraph 117 of the Framework states that *"planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions"*. Furthermore, Paragraph 118 of the Framework states that planning decisions should *"promote and support the development of under-utilised land and buildings especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively"*. The development of the site for housing would bring a beneficial use to this disused and neglected site.
11. In respect of the site's sustainability credentials, there are bus stops outside the site and on the opposite side of the road that provide a regular service in both directions along the A28 towards Sturry and Hersden where there are shops and other facilities. There is a lit footpath extending eastwards towards the recently completed Spires Academy Secondary School and housing near to it. Although there are few facilities within Westbere itself, apart from a public house, I consider that the site is in a reasonably sustainable location. Future occupiers of the dwellings would not need to be reliant on the use of private cars to access all everyday goods and services.
12. Notwithstanding the uncertainty on whether the site is strictly within the confines of Westbere and the implications for local planning policies, it seems to me that the residential use of the site would be acceptable having regard to the site circumstances and to national planning policies. In the absence of a specifically identified local need, the use of the site for housing would be appropriate and in accordance with the aim within the Framework to significantly boost the supply of homes. Moreover, the use of the site for residential purposes would be in accordance with Paragraph 78 of the Framework as the housing would be located where it would enhance or maintain the vitality of the rural community of Westbere. The status of the site as previously developed land on the edge of a settlement rather than remote from a settlement would outweigh consideration of the site in relation to the rural restraint policies HD3 and HD4. The sustainability of the site and accessibility to local services would be similar to that for the recently completed housing on the former Spires Academy site to the east. It would be at an acceptable level and would not materially conflict with the sustainability objectives in Policies SP1 and T1 of the CDLP.

Character and appearance

13. The site and surrounding area are of mixed character and appearance. Much land to the northern side of the A.28 in the vicinity of the site is open and undeveloped, but it is also punctuated by contrasting large and small developments. The car dealership to the east of the site has a long frontage with extensive hard surfaced areas and is urban in appearance. The houses in Pennington Close opposite the appeal site have been built at a lower density than proposed at the appeal site; they have relatively large gardens and a landscape buffer screens the houses from the A.28.

14. Policy DBE3 of the CDLP sets out design principles for new development and requires it to reinforce and positively contribute to its local context. Supporting paragraph 8.45 states "*New housing development on greenfield or large brownfield sites should tie in with the adjoining areas and develop a coherent built form and character in its own right. Proposals to develop at a scale and massing that are considered to be out of character with the adjoining area, and would harm the surrounding context will be resisted*". Given the diversity of built form in the context of the site, any proposal for redevelopment is likely to result in a "*character in its own right*". Nonetheless, it is appropriate to take cues from neighbouring developments.
15. The two storey height to the proposed dwellings, some with roof dormers, would accord with the scale of neighbouring residential developments. The detached and semi-detached form of the houses would similarly reflect the predominant form of dwellings nearby. The Council have objected to the inclusion of a terrace of 4 houses, but this would not be wider than the existing building and would be seen in the context of the long commercial building for the car dealership alongside. Moreover, there are terraced houses at the recently completed development on the former Spires Academy site some 400m to the east. The site layout would follow an orthogonal approach with most dwellings fronting a central spine road on broadly rectangular plots; this would also be similar to the layout on the Spires site.
16. The appellant has calculated the density of development at the appeal site to be 38 dwellings per hectare (dph) and that for the Spires site to be slightly lower at 36.5 dph. The Spires site is much larger containing 80 houses and has an even rectangular shape enabling regularity in the rectangular form and consistency in the size and shape of plots for the houses. The appeal site has an irregular shape by comparison. The houses on plots 2 and 6 would have relatively small triangular back gardens due to the proximity of splayed site boundary lines. Whilst the appellant has pointed to supplementary land to the side and front of these dwellings, these areas are small, narrow and open to public view; they do not readily compensate for the constrained back gardens.
17. Other than the terrace, all proposed houses would have 4 bedrooms and be suited to family occupation. Whilst some plots would have adequately sized back gardens, others would not. The gardens to plots 10 and 13 would be particularly short and of a size less than the footprint of the houses they relate to. The garden lengths and sizes of the houses at the Spires site are all more generous by comparison. Yet condition 8 to the planning permission for that development limited permitted development extensions to the houses and outbuildings in the gardens to not more than 10 cubic metres to preclude over-development of the site. This is an indication that the site was developed to a maximum appropriate density.
18. The erection of permitted development extensions and outbuildings to the smaller plots at the appeal site would significantly erode the amenity space available. National planning guidance is that permitted development allowances should not be removed unless there are exceptional circumstances. The appellant has indicated that the garden sizes have been based upon the London Design Guide. However, it is my judgement in the context of this semi-rural site in Kent that the garden sizes would be unduly small for several of the large family houses proposed. The garden sizes also compare unfavourably with the nearest comparators to the site. The proposal would result in a relatively

cramped layout having regard to its density and plot sizes and this would be contrary to the design principles set out in Policy DBE3 which includes at (j) *"The provision of appropriate amenity and open space"*.

19. The appellant has submitted a character analysis to compare the appeal proposal with 3 of sites in the surrounding area. One of these is the new housing at the former Spires Academy site which I have already examined. The appellant claims that the erection of 14 houses at Island Road Service Station at a higher density sets a precedent for the appeal proposal. But this proposal is for only terraced houses and is on a linear site in a much more urban setting in Sturry. Reference is also made to the development of 10 detached and semi-detached houses on land adjoining Goose Farm. This development has a much lower density and is in a more rural setting. Neither proposal provides justification for the appeal proposal which must be considered on its individual merits.

Housing Mix

20. Policy SP2 of the CDLP states that the mix of housing types and tenures will be expected to meet the proportions set out in the Council's Housing Strategy. The Council has recently adopted the Housing and Homelessness Prevention Strategy (2018-2023) (HHPS). This sets out in Table 3 a mix of unit sizes to be applied to all new housing sites in the District, subject to site specific considerations: 11% (1-bed), 33% (2-bed), 35% (3-bed) and 21% (4-bed). The proposal would comprise 69% 4-bed houses which the Council contends would be a significant overprovision and contrary to the HHPS.
21. The appellant points to data within the Strategic Market Housing Assessment (SMHA) for 2018 which underpins the HHPS and refers to the need for a higher proportion of larger homes needed within the Rural North Sub Market Area within which the appeal site is located. The SMHA recommends a range of 8-10% either side of the target figures adopted in the HHPS. The proportion of 4-bed houses at the appeal site would be substantially beyond the upper end of such a range, and without justification in the Council's opinion, notwithstanding their claim that there is flexibility in applying the policy.
22. In my judgement whilst a housing mix strategy is useful in reconciling housing need and supply, it should not be applied too rigidly on relatively small sites such as this and site circumstances should be taken into account. A higher proportion of smaller units rather than family houses can be provided in more urban locations where densities would tend to be higher. The appeal site is suited to family housing and has reasonable access to local schools. A higher proportion of 3-bed houses would be preferable and better accord with the HHPS but given the need for some flexibility in applying the targets to individual sites, the harm arising from the proposed mix would not be so great as to warrant the refusal of planning permission on this issue alone.

Other matters

23. The Council claims that it can currently demonstrate a five year housing land supply of deliverable sites. The appellant refers to the Council's recent poor record on housing delivery and challenges the accuracy of the Council's claims, detailing an overly optimistic commentary on delivery assumptions on several strategic sites leading to the contention that that it cannot currently demonstrate a five year housing land supply.

24. Calculation of five-year land supply is a continuously shifting assessment and can only ever be evaluated from a point-in-time perspective. There remains uncertainty on the precise time scales on when sites will come forward for delivery. Having regard to the passage of time from the appellant's statement in February 2019, the Council robustly defended their housing supply figures at the Hearing. The Council referred to a locally determined phasing methodology, in accordance with best practice, that informed delivery assumptions. Reference was also made to a positive housing delivery test result.
25. Whilst any current surplus in the five year supply may be "fairly marginal" as was the finding in a recent appeal hearing, from the evidence before me, the Council can currently demonstrate a five year housing land supply. As such, the presumption in favour of sustainable development set out at Paragraph 11 of the Framework would not apply to the appeal proposal. Nonetheless, I have found no objection to the principle of residential development on the appeal site. The development of the site for housing would make a small additional contribution to the modest level of supply from windfall sites in the Council's calculations.
26. The appellant has submitted a planning obligation which the Council has entered to address the Council's third, fourth and fifth refusal reasons. The appellant has also submitted a 'Report to Inform a Habitats Regulations Assessment (including Appropriate Assessment)'. This concludes that following implementation of mitigation including contributions to the Thanet Coast and Sandwich Bay Special Protection Area (SPA), the proposal would have no adverse effect on the integrity of European sites. The planning obligation includes a contribution agreed by the Council in relation to the SPA, the provision of 30% affordable housing (the terraced houses) and contributions towards libraries and open space. I note that the Council is satisfied with the planning obligation, but as the appeal is to be dismissed in relation to other matters, there is no need for me to make a finding on its content.

Conclusion

27. The appeal site would be a suitable location for the proposed development having regard to relevant local and national planning policies. The high proportion of 4-bed units would not be sufficient reason to reject the proposal in relation to housing mix having regard to site circumstances. However, whilst the form and scale of the dwellings would be acceptable, the layout and plot sizes proposed would result in a cramped development that would be detrimental to the character and appearance of the area. For the reasons given and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

James Waterhouse	Iceni Projects (agent)
Paul Chandler-King	Iceni Projects (agent)
Michael Harrison	Forge Design Studio (architects)
Loretta Mifsud	Forge Design Studio (architects)
Michael Johnson	Rockhold (Westbere) Ltd (appellant)
Jonathan Wilkins	Rockhold (Westbere) Ltd (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Gambrill	Planning Officer, Canterbury City Council
Mrs Shelly Rouse	Principal Planning Officer (Policy) Canterbury City Council
Louise Randall	Planning Officer, Canterbury City Council
Jessica Brown	Planning Officer, Canterbury City Council
Chris Pragnell	Planning Officer, Canterbury City Council
Oliver Ansell	Planning Officer, Canterbury City Council

DOCUMENTS SUBMITTED AT THE HEARING

Delegated report on CA/13/02349/FUL – 80 dwellings at Spires Academy site

Additional planning condition suggested by the Council (archaeology)