
Appeal Decision

Site visit made on 24 June 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/J2210/W/20/3246132

The Bungalow, Iffin Lane, Thanington Without, Canterbury, Kent CT4 7BD

- 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 Andrew Palmer against the decision of Canterbury City Council.
 - The application Ref CA/19/10065, dated 2 October 2019, was refused by notice dated 13 January 2020.
 - The development proposed is the erection of a new self build dwelling within residential amenity land.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form, albeit with the address omitted on the basis that it is not necessary for it to be included. At Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The development has been advanced on the basis that the proposed dwelling would be built as a self-build dwelling as defined by the Self-Build and Custom Housebuilding Act 2015 (as amended)(The SBCH Act). The appellant has submitted a Unilateral Undertaking (The UU) in this regard, which I shall address further below.

Main Issue

4. The main issue is whether the development would be located in an area suitable for new housing in relation to the ability to access services and facilities.

Reasons

5. The appeal site hosts a detached bungalow and associated outbuildings within a large garden that is elevated from Iffin Lane. The site is located within an area of residential properties that is detached from any main settlement. The proposed development would involve the erection of a detached dwelling to the rear of the existing dwelling, which would be retained on a reduced plot.
6. Policy SP4 of the Canterbury District Local Plan (2017) (The CDLP) identifies areas to be the principal focus for growth and other areas where appropriate growth can be accommodated. However, the appeal site and Thanington Without is not

included within this settlement hierarchy and is therefore located in the countryside in planning terms. Policy SP4 of The CDLP states that in the open countryside, development will be permitted if required for agriculture and forestry purposes. Furthermore, Policy HD4 of The CDLP lists the circumstances where new dwellings in the countryside would be permitted, none of which are applicable to the proposed development.

7. The Appellant has suggested that Policies SP4 and HD4 of The CDLP should be considered out of date on the grounds that they are not consistent with the provisions of the National Planning Policy Framework (The Framework). Paragraphs 77 and 78 of The Framework address rural housing and state that housing should be located where it will enhance or maintain the vitality of rural communities, including where development in one village may support services in a village nearby. In this regard, as Policy SP4 of The CDLP does not wholly restrict development outside of the main settlements and sets out a strategic approach towards the location of development which includes locations that are outside of settlement boundaries, I find that the policy is consistent with The Framework.
8. The approach contained within Policy SP4 also reflects paragraphs 102 and 103 of The Framework which identify that patterns of growth should be actively managed to take opportunities relating to existing or proposed transport infrastructure and the promotion of walking, cycling and public transport use, albeit noting that such opportunities vary between rural and urban areas. In this regard I recognise that a similar conclusion was reached in relation to an earlier appeal decision¹ at this site. Moreover, as Policy SP4 allows for development outside of settlement boundaries, alike the appeal decision at Mid-Suffolk District Council² that has been brought to my attention, I do not find that settlement boundaries are necessarily decisive.
9. Although Policy HD4 refers to the countryside generally, when taken in conjunction with Policy SP4, the policies do not create a restriction on development in the countryside in a manner that is inconsistent with The Framework or the Planning Practice Guidance³. In this regard, I note that the preamble of Policy HD4 indicates that the policy is intended to relate primarily to isolated dwellings. Moreover, Policy HD4 and The Framework contain similar lists of circumstances where development will be allowed in isolated locations. Therefore, when taken as a whole, I do not find that the most relevant policies of the development plan are inconsistent with The Framework. However, in this context and as the dwelling is not isolated, I find that Policy HD4 is of limited relevance to the proposal.
10. Whilst I have had regard to the proximity of the nearest services, facilities and transport connections that have been identified by the appellant, the site is detached from any of the settlements listed in Policy SP4 and the limited range of facilities within the vicinity of the site would not be sufficient to reduce the need to travel. I recognise that development in rural areas can support the vitality of nearby services and facilities in villages, but a single dwelling would make a limited contribution in this regard and I have little evidence before me to demonstrate that additional housing is required to assist with maintaining the vitality of the nearby settlements. It has also not been demonstrated that the proposed development would be of sufficient scale to maintain or enhance any local facilities or services.
11. Whilst I note the presence of a footpath linking Thanington Without to Canterbury, this is not within the immediate vicinity of the site and, therefore, its presence would not be sufficient to encourage its use in preference to the private car.

¹ APP/J2210/W/18/3217568

² APP/W3520/W/18/3194926

³ Planning Practice Guidance. Paragraph: 009. Reference ID: 67-009-20190722

Accordingly, given that Iffin Lane and the adjoining roads are narrow, unlit and mostly without footpaths, the location of the development would not encourage walking or cycling. Therefore, in order to access any services and facilities, the future occupiers of the development would be largely reliant on the use of the private car. This conflicts with the abovementioned aims of the Framework and the policies of The CDLP.

12. It has been brought to my attention that other substantial developments⁴ have been approved within the surrounding area which would bring housing development, services and facilities in closer proximity to the site than is currently the case. However, minimal details have been provided of how the occupiers of the appeal site would be able to access those developments and, as they are of a substantial scale and in different locations, I do not find that those developments represent a reason to find the appeal site a suitable location for residential development in terms of access to local services and facilities.
13. Whilst a development occurring at 28 New House Close has also been brought to my attention, I have limited details before me of the relevant permission⁵ and those details that I do have indicate that there were other relevant considerations, including the existence of an extant permission, that are not applicable to this case. As such, the evidence before me does not demonstrate that the circumstances of that development are comparable to the context of the appeal proposal and I afford that development minimal weight.
14. I have had regard to the part of paragraph 103 of The Framework which identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, I do not find that this, in itself, is reason to give diminished weight to the other sections of The Framework that have been identified above. Moreover, whilst I have had regard to an appeal decision⁶ from Mid Suffolk District Council and the manner in which that site was described, as limited details of that development and its context have been provided, I am not able to be certain that the circumstances are sufficiently comparable for that decision to be afforded weight in this case.
15. Therefore, for the reasons set out above, the development would not be located in an area suitable for new housing in relation to the ability to access services and facilities. Consequently, the proposed development would fail to comply with the abovementioned aims of Policies SP1 and SP4 of the CDLP. The proposal would also be contrary to those parts of The Framework that are identified above that relate to residential development in rural locations and the accessibility of services and facilities.

Other Considerations

16. The main parties have provided contrasting evidence in relation to the Council's ability to demonstrate an adequate supply of housing land, with the appellant indicating that there is a 1.25 or 2.83 year supply and the Council identifying a 6.79 year supply. In this regard, the evidence provided by both main parties is insufficient to enable me to be certain whether or not an adequate supply of housing land exists.
17. Even if I proceed on the basis that the Council cannot demonstrate a five year supply of housing land, that the shortfall is in the region of either of the appellant's calculations and the approach detailed within paragraph 11d of The Framework

⁴ 15/01479 and 17/00519/OUT

⁵ CA/18/00941/FUL

⁶ APP/W3520/16/3144431

applies, the provision of one dwelling would make a very limited contribution to the supply of housing. This is, however, a benefit of the proposal, as is the effective and increased utilisation of a small site that constitutes previously developed land.

18. The submitted UU reflects the appellant's intention for the development to represent a self-build dwelling. However, whilst The UU indicates that the identified owners own the freehold of the site free from incumbrances, this has not been confirmed through the submission of title details or any other records of land ownership. Moreover, contrary to the content of The UU, the plan that has accompanied it does not demark the appeal site in red. Even if I take the thicker black line that is shown on that plan to be red, as I assume is intended, this does not match the extent of the appeal site. These matters reduce the certainty that the self-build nature of the proposal would be secured. However, in the event that I were minded to allow the appeal, it appears that these matters would be straightforward to remedy and I have, therefore, taken the potential benefits arising from the provision of a self-build dwelling into account.
19. The Council has not contested the appellant's assertions that the development plan includes no policies relating to self-build housing, that a self-build register is not available and that the Council has no identified supply of self-build housing. I also acknowledge the appellant's presence on the self-build register. Therefore, having regard to The SBCH Act, paragraph 61 of The Framework and the Planning Practice Guidance⁷, the potential benefit arising from the provision of self-build housing weights in favour of the proposal.
20. However, The SBCH Act does not alter the status of the development plan and the abovementioned support for self-build housing does not diminish the importance of the other aspects of The Framework. Moreover, whilst I have had regard to the shortfall of self-build housing that has been identified by the appellant, the benefit arising from a single dwelling would be limited. In this regard, as it appears that there are substantial differences between proposals, I find that an appeal decision at North West Leicestershire District Council⁸ is of minimal relevance to this development.
21. I acknowledge that the appellant and his family are existing residents of the site and have a lengthy connection to the local area that enables them to be familiar with the services and facilities that are present. However, I have not been made aware of any local or national policy that indicates that this, in itself, is a factor that I should afford weight to in this case. Similarly, as the future occupation of the existing dwelling would not be restricted, I give little weight to the appellant's suggestion that the increase of dwellings at the site would not bring about an increase in the demand for travel from the site.
22. The appellant has indicated that the construction and occupation of an additional dwelling at the site would bring about economic benefits in terms of supporting local services and facilities and it has also been suggested that self-built development involves less financial risk than where a buyer is required to be sought. Furthermore, it has been suggested by the appellant that the dwelling would be designed as a life-time home and I acknowledge that the submitted plans show that the development would include an electric vehicle charging point, solar panels and a solar water heating panel. Whilst these are positive elements of the proposed development, as it has not been demonstrated that the arising benefits would exceed what would be proportionately expected of a single dwelling, the benefits of the proposal in these respects would be limited.

⁷ Paragraph: 023 Reference ID: 57-023-201760728

⁸ APP/G2435/W/18/3214451 and APP/G2435/Q/18/3214498

Planning Balance and Conclusion

23. The proposed development of a small, previously developed site would be acceptable in several respects and bring about some benefits such as contributing towards the supply of housing and self-build housing. However, the benefits would be limited due to the proposal relating to a single dwelling.
24. Conversely, the location of the development would be contrary to the aims of the Framework which seek to enhance or maintain the vitality of communities and promote sustainable transport. I afford the harm arising in these respects significant weight. Therefore, even if I proceed on the basis that the approach set out at paragraph 11d) of The Framework applies on the grounds that a suitable supply of housing cannot be demonstrated by the Council, I conclude that the harm caused by the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against The Framework as a whole. The development would also conflict with policies of the development plan as set out above.
25. Consequently, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR