The Planning Inspectorate

Appeal Decision

Site visit made on 30 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Appeal Ref: APP/J2210/W/20/3245449
Goose Farm, Shalloak Road, Broad Oak, Sturry, Kent CT2 0QE

- 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 Citi nests Limited against the decision of Canterbury City Council.
- The application Ref 18/02034, dated 2 October 2018, was refused by notice dated 25 July 2019.
- The development proposed is 17 no. two-storey dwellings and associated open space, landscaping, access and parking following demolition of a detached dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) the effect of the development on the rural character and appearance of the area, (b) whether the proposal would have an appropriate housing mix, (c) ecological considerations, (d) the requirement for affordable housing and (e) the requirements for community infrastructure and open space.

Reasons

Character and appearance

3. The appeal relates to an irregular shaped plot on the western side of Shalloak Road towards the outskirts of the village of Broad Oak. The site comprises a dwelling, a detached annex, a large garden with many trees and managed grassland adjacent to the road. To the west of the site is an industrial site the access to which from Shalloak Road is along the site's northern boundary. To the south, beyond a public footpath, is an orchard with open countryside beyond this. The surrounding area is otherwise mainly residential in character, though varied in form.

4. Permission has been granted for 10 dwellings on vacant land to the north of the site (ref. 17/01502). There is a strategic development site to the rear of dwellings on the eastern side of Shalloak Road for a mixed development including a substantial number of dwellings. The appellant has also drawn my attention to a recent appeal decision relating to land off Popes Lane, Sturry[1], another nearby site that it is anticipated will soon come forward for housing.

[1] Appeal Ref: APP/J2210/W/18/3216104 and application Ref 18/01305.

5. It is therefore likely that the character of the wider area will change as a result of developments at these sites, including through the provision of housing at higher densities than prevalent in some parts of the locality. Nonetheless, Policies SP4 and DBE3 of the Canterbury District Local Plan (2017) (CDLP) require that the size, scale and character of new housing be of high quality design and appropriate to the character and built form of Sturry and Broad Oak. It is therefore relevant to also assess the proposal in relation to the appeal site's more immediate context.

6. On the eastern side of Shalloak Road, opposite the appeal site, is a ribbon of detached and semi-detached dwellings all fronting the road but with much variation in design and materials. Further north there are terraced houses and development in depth, more reflective of the form and layout of the appeal proposal. The site has a degree of separation from neighbouring residential development as a result of the access to the industrial estate and the maintained grassland to the front, and therefore a form of development that departs to a degree from established character could be warranted. But the design and appearance of the proposed dwellings, particularly the narrow plot widths and mono-pitched roofs would greatly contrast with existing housing.

7. The appellant contends that the proposal would be carbon neutral and a sustainable community development in accordance with Paragraph 131 of the National Planning Policy Framework (the Framework) which states that great weight should be given to innovative designs which promote high levels of sustainability. But this paragraph also provides a qualification for such designs, "*so long as they fit in with the overall form and layout of their surroundings*". Paragraph 127 of the Framework encourages developments that "*optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development*", but also requires planning decisions "*are sympathetic to local character and history, including the surrounding built environment and landscape setting*".

8. The proposal would be an intensive and unduly cramped development in relation to the narrowness of the house plots, the small private amenity and communal play areas provided and in the proximity of the rear walls to houses in blocks D and E to the flank wall to block F. It would not be appropriate to the character and built form of Broad Oak and would thereby be contrary to Policies SP4 and DBE3. However, there would not be significant conflict with Policy LB4 of the CDLP in relation to landscape character. There are trees alongside the public footpath to the southern side of the site that offer some screening from the open countryside. The site is more readily perceived in the context of the street scene of Shalloak Road and the adjacent industrial estate.

Housing mix

9. 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's fifth refusal reason references the Housing and Homelessness Prevention Strategy 2018-2023 and their appeal statement refers to the Housing, Homelessness and Rough Sleeping Strategy 2018-2023. In relation to housing mix, these documents identify a higher requirement for three-bed dwellings (36-41%) than two-bed dwellings (26-31%). As 15 of the 17 units proposed would be two-bed units, the mix would not accord with the Council's understanding of the balance of local housing need.

10. However, there is also a clear demand for two-bed dwellings and the proposal would satisfy other aspirations in the Council's housing documents such as energy efficiency and affordability which have influenced the nature and mix of the proposal. There are likely to be other larger residential developments in the wider area that would be likely to redress any imbalances in the mix of unit sizes on this relatively small site. It is not necessary or reasonable for all developments to tightly reflect an indicative mix of housing sizes when the balance can be considered across a range of sites with differing characteristics. The proposal would not therefore be unduly harmful to the aspirations on housing mix set by Policy SP2.

Ecological considerations

11. The application site is located within the Zone of Influence of the European designated Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar site. The Council has carried out an Appropriate Assessment which concluded that the development would not adversely affect the site's integrity, subject to mitigation, a view with which Natural England concurs. The appellant has expressed willingness to enter into a legal agreement to secure financial contributions towards the Council's Thanet Coast and Sandwich Bay SPA Strategic Access Management and Monitoring (SAMM) Plan to manage recreational pressures on the SPA/Ramsar site. However, no such legal agreement accompanies the proposal. Had I been minded to allow the appeal in relation to other matters, this issue would have warranted greater attention. But in the absence of a related legal agreement the proposal would be likely to adversely affect the integrity of the SPA/Ramsar site and would thereby be contrary to Policies SP6 and LB5 of the CDLP that seek to safeguard such sites.

Affordable housing

12. Policy HD2 of the CDLP requires provision of 30% affordable housing on all residential development proposals but in this instance, the Council would be willing to accept 20% provision (equating to 4 dwellings) having regard to Planning Practice Guidance on 'build to rent' schemes, such as proposed here. The appellant has indicated willingness to provide a legal agreement to secure delivery of the requested proportion of affordable housing. But as the proposal is not accompanied by a legal agreement to address the issue, there is no assurance that affordable housing would be secured. The proposal would thereby be contrary to Policy HD2.

Infrastructure

13. The on-site open space provision would not meet the requirements of Policy OS11 of the CDLP and as such the Council has sought a financial contribution towards the provision of new open space, or an improvement to open space or recreational facilities elsewhere in the locality. The appellant considers acceptable both this requirement and a request for contributions towards education and libraries; but a legal agreement to secure contributions towards these provisions has not been provided. The proposal would thereby be deficient in relation to open space provision and community infrastructure requirements and so contrary to Policies OS11, EMP9 and QL5 of the CDLP.

Other matters

14. There is disagreement between the parties on whether the Council has a five year housing land supply and therefore if the tilted balance at Paragraph 11 of the Framework should apply. The appellant references the appeal decision at land off Popes Lane, Sturry dated September 2019, in which housing land supply and housing requirement were examined in some detail following an appeal inquiry. The Inspector considered the deliverable supply at that time to be 4.8 years, a little below the requirement. The Council does not accept the conclusions of that appeal as it ignored the decision of the High Court as to the interpretation of CDLP Policy SP4 and contends that it has 6.79 years of housing land supply based upon the Council's Annual Monitoring Report for 2018-2019. The appellant has pointed to the more recent Housing Delivery Test results for 2019 (issued February 2020); the results for Canterbury reveal that an action plan is required as the authority's housing delivery at 87% falls short of the 95% benchmark.

15. It is evident that the Council's recent track record on housing delivery has been on the margins of acceptability. Calculation of a five year land supply can only be evaluated from a point-in-time perspective given uncertainties on when individual site will come forward. From the evidence before me there is some doubt that the Council can currently demonstrate a five year housing land supply. But even if I were to conclude that the Council does not have a five year housing land supply and that the tilted balance should apply, the adverse impacts of the proposal on the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Nonetheless, I have found no objection to the principle of residential development on the appeal site. Its development for housing would make a small contribution to meeting the evident need for additional housing.

16. I have noted the representations from interested parties, mainly objecting to the proposal, but also the support from Sturry Parish Council. These do not change my findings on the main issues.

Conclusion

17. The proposal, notwithstanding its sustainability credentials, would be an unduly cramped and intensive form of development unsympathetic to the character of Broad Oak. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR