



Appeal Decision

Site visit made on 15 September 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

Appeal Ref: APP/J2210/W/19/3242187

21 Chestnut Avenue, Blean CT2 9HY

- 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 & Mrs Wilkinson against the decision of Canterbury City Council.
 - The application Ref 19/01536, dated 26 July 2019, was refused by notice dated 20 September 2019.
 - The development proposed is erection of detached dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: the effect of the proposal on the character and appearance of the site and the surrounding area; and the effect of the proposal on European Designated Sites.

Reasons

Character and appearance

3. The appeal site is the rear garden of 21 Chestnut Avenue, a semi detached two storey dwelling. The site fronts onto Blean Common. It lies in an established residential area of predominantly two storey dwellings, both detached and semi-detached. Those which front onto Blean Common are usually set well back from the carriageway behind large front gardens or landscaped areas, giving Blean Common a sense of spaciousness and verdancy to which the appeal site makes a positive contribution.
4. The proposal would subdivide the existing plot and introduce a single storey dwelling between the rear of No 21 and the road, significantly closer to the road than the buildings to either side. The proposal would be clearly visible from Blean Common and its position, notwithstanding the scale of the building would undermine the sense of openness and verdancy which I have identified above, introducing a discordancy in the street scene which would, in this instance, amount to unacceptable harm.
5. Whilst, within the wider area, there are bungalows on a similar scale to that proposed, those that I observed are usually set well back from the carriageway, often behind substantial hedges and landscaping. There are also buildings in the area with a similar setback to that proposed, and my attention

has been particularly drawn to 39 Blean Common. However the position of that dwelling is in the context of the layout of a recent larger development and I do not consider that its presence results in the same degree of harm that I have identified above. Dwellings further afield do not form part of the immediate context of the appeal site and so these bear limited weight in my decision.

6. I therefore find that the proposal would result in unacceptable harm to the character and appearance of the site and its surroundings. It would, therefore, be contrary to Policies SP4 and DBE3 of Canterbury District Local Plan -2017- (the Local Plan) which together require, amongst other things, that developments are of a size, design, scale, character and location appropriate to the character and built form of the settlement and reinforce and positively contribute to its local context. For similar reasons the proposal would be contrary to the aims of the National Planning Policy Framework -2019- (the Framework) which seek to achieve well-designed places that are sympathetic to local character, including the surrounding built environment.

European Designated Sites

7. The site is located within the zone of influence of the Thames Medway & Swale Estuaries and 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 incorporate strategic mitigation measures to be delivered to avoid adverse impacts.
8. 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.
9. Paragraph 175 of the Framework states, with regard to habitats sites, that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused". The Protected Sites are used for public recreation and therefore the proposed development is likely to generate an increased recreational use and thus, in combination with other development, have a significant effect on the features of interest of the Protected Sites.
10. Although I note the willingness of the appellants to enter into a legal agreement to provide the SAMMS payment, a financial contribution towards mitigating the effects of the proposal on the SPAs, no such agreement is before me.
11. I am, therefore, unable to complete the AA favourably and, as such, I must conclude that, following Appropriate Assessment, the proposal would cause

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

harm to the Protected Sites. Therefore, the scheme would conflict with Policies SP1, SP6 and LB5 of the Local Plan and those parts of the Framework that seek to conserve and enhance the natural environment.

Other Matters

12. My attention has been drawn to a development on another site which the appellants consider similar to their proposal for which a scheme was refused permission, but for which a subsequent, amended scheme was permitted. I have limited evidence before me to demonstrate that the schemes or the development setting were so similar as to provide a direct contextual comparison with the proposal before me. I have, in any case, determined this appeal on its own merits.

Conclusion

13. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR