



Appeal Decision

Site visit made on 4 May 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/J2210/W/20/3257050

26 St. Marys Grove, Seasalter, Whitstable, CT5 4AF

- 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 Kelvin Sandhu against the decision of Canterbury City Council.
 - The application Ref CA/19/10130, dated 23 November 2019, was refused by notice dated 11 March 2020.
 - The development proposed is demolition of existing dwelling and erection of a pair of semi detached dwellings, with private gardens and off street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Planning permission has now been granted for a single replacement dwelling on the site and this development is proceeding.

Main Issues

3. The effect on the integrity of the Thames, Medway and Swale Estuaries and Thanet Coast and Sandwich Bay Special Protection Areas (SPAs) and whether the proposed dwellings would be at risk of tidal flooding.

Reasons

Integrity of the Special Protection Areas

4. The site is within the zone of influence of the Thames, Medway and Swale Estuaries and Thanet Coast and Sandwich Bay SPAs. In combination with other development in Canterbury, the proposal has the potential to create recreational disturbance in those areas by increasing the resident population. There would therefore be a likely significant effect on the SPAs.
5. Policy SP6 of the Canterbury District Local Plan explains that in these circumstances new developments are expected to fund management and monitoring measures to mitigate these impacts. The appellant has indicated a willingness to sign up to the Strategic Access Management and Monitoring agreement as requested but no planning obligation or other mechanism has been provided to secure the requisite contribution. Without this in place, it is not possible to be sure that any adverse impacts would be avoided.
6. Therefore, following an appropriate assessment, the proposal would adversely affect the integrity of the SPAs. As a result, it would be contrary to Policy SP6 and

also Local Plan Policy LB5 which seeks to protect sites of international conservation importance.

Risk of tidal flooding

7. The appeal site is within Flood Zone 2 and there is a potential risk of flooding from the sea. The Council considers that a separate sequential test across the District should have been undertaken to comply with Local Plan Policy CC5. However, the appeal site partly comprises previously developed land where new developments are exempted from this requirement. Furthermore, the proposal would comprise minor infill development which will be permitted within Flood Zone 2 according to Policy CC6, subject to the provisions of other policies and having regard to the risks in each case.
8. In that respect, a Flood Risk Assessment has been provided in line with Policy CC4 which brings together evidence from other sources. For example, the Strategic Flood Risk Assessment (SFRA) establishes that this part of St Marys Grove is outside the area at risk of flooding due to a failure of the existing defences and allowing for climate change to 2110. Various scenarios have also been modelled by the Environment Agency but even in the worst case the risks are very low. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. However, the SFRA has identified hazard areas along the District's low-lying coast and these exclude the appeal site. Furthermore, the SFRA will have informed the Local Plan policies which make allowances for certain types of development on previously developed land.
9. Where development is allowed in areas at risk of flooding, paragraph 163 of the National Planning Policy Framework sets out certain matters that should be demonstrated so that it is safe for its lifetime. Management measures, including those to deal with any residual risks, are identified in the Flood Risk Assessment and could be secured if the development were to proceed.
10. In conclusion the dwellings would not be at high risk of tidal flooding and any risks are within acceptable limits given the safety measures that could be incorporated. As a result, the proposal would accord with Policy CC6 which accepts minor infill development on previously developed land within Flood Zone 2 and there is also no conflict with Policy CC5. The compliance with relevant development plan policies outweighs the need to undertake a sequential test as set out in national policy and advice.

Conclusions

11. Although there is no objection to the proposed development on the grounds of flood risk the absence of a means to secure mitigation to protect the nearby SPAs is decisive. Overall the proposal would be contrary to the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR