
Appeal Decision

Site Visit made on 13 July 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2021

Appeal Ref: APP/J2210/W/21/3274092

1 Rosedene, Ashford Road, Chartham, CT4 7HL

- 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 Anthony Simons against the decision of Canterbury City Council.
 - The application Ref CA/20/02052, dated 14 September 2020, was refused by notice dated 17 December 2020.
 - The development proposed is described as semi-detached two bedroom house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal in the banner heading above is taken from the application form. However, it is clear from the submitted drawings and the description of the development on the appeal form that two semi-detached dwellings are proposed. This is the basis on which the Council determined the application and on which I have determined this appeal.
3. Subsequent to the refusal of the application, the appellant produced an additional drawing; AS-KH/03 Site Plan, mainly relating to highways matters. The Council has had the opportunity to comment on this additional drawing and I am satisfied that, having regard to the '*Wheatcroft principles*¹', no-one would be prejudiced by my acceptance of this drawing and I have therefore taken it into account in my determination. I return to this drawing below.
4. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the main parties have been given the opportunity to comment.

Main Issues

5. The main issues are:
 - i) whether the site is an appropriate location for housing, having regard to local and national policies and the accessibility of facilities and services;
 - ii) the effect of the proposal on the safe and convenient use of the highway.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL 1982 P37]

Reasons

Location

6. The appeal site is located some distance to the north-east of Chartham, from which it is separated by fields. The site is the side garden to 1 Rosedene (No 1), the end of a row of five dwellings with commercial buildings to either side and opposite, including car showrooms, vehicle workshops and a garden centre. A public footpath runs between No 1 and the appeal site linking Ashford Road to a pedestrian crossing over a railway line behind the properties.
7. Policy SP1 of the Canterbury District Local Plan (2017) (the Local Plan) promotes sustainable development in accordance with the Framework. Policy SP4 of the Local Plan sets out a strategic approach to the location of development, with a settlement hierarchy. Given its separation from Chartham the appeal site does not fall within any of the settlements identified in the policy. Therefore, notwithstanding its built up setting, the site is within the countryside for the purposes of planning policy.
8. Policy HD4 of the Local Plan is a restrictive policy on new dwellings in the countryside. It has not been put to me that any of the circumstances in which a new dwelling in the countryside will be permitted under the policy are applicable to the proposal.
9. The site is relatively remote from day to day facilities and services with the nearest being at Chartham. This finding is consistent with that of the Inspector that determined the previous appeal for this site². Whilst there is a footway along Ashford Road, it is narrow in places and unlit, and accessing the village would necessitate crossing Ashford Road. The road also has no dedicated cycleway to Chartham. Consequently, neither walking nor cycling would be an attractive option.
10. Moreover, the future occupiers of the proposed dwellings would need to travel to a larger settlement such as Ashford or Canterbury to access higher order facilities and services. I have no evidence of bus services to either of these settlements passing the site. It is therefore very likely that future occupiers would be largely reliant on the private car to access facilities and services. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it advocates limiting the need to travel; prioritising pedestrian and cycle movements and promoting walking, cycling and the use of public transport.
11. I therefore conclude that the appeal site is not an appropriate location for housing, having regard to the availability of facilities and services. Accordingly, in this respect, the proposal would conflict with Policies SP1, SP4 and HD4 of the Local Plan.

Highway safety and convenience

12. The proposal would result in an increase in use of the existing vehicular access onto Ashford Road, which is a classified A road (the A28) subject to a 40 mph speed restriction past the appeal site. Accordingly, visibility splays of 2.4 m x 104 m are required in both directions from the access, with no obstruction over 0.9 m high within the splays. Pedestrian visibility splays of 2 m x 2 m behind

² APP/J2210/W/20/3246500

- the footway on both sides of the access, with no obstructions over 0.6 m above footway level, are also required. Furthermore, sufficient turning space should be provided to allow vehicles to enter and exit the proposed driveways in forward gear. These splays and space are necessary to avoid potential conflicts between vehicles exiting the site and pedestrians and / or vehicles on the A28.
13. The Highway Authority requested amended plans showing the visibility splays, turning provision, an additional visitor parking space, cycle storage and an electric vehicle charging point for each dwelling. The new drawing submitted with the appeal shows the additional space, storage and charging points but it does not show the splays and the turning provision is only indicative.
 14. I accept that the A28 to either side of the appeal site is a straight stretch of road affording views in both directions when exiting the existing access as shown on the photographs submitted with the appeal. However, these do not indicate if they are taken from 2.4 m back from the edge of the carriageway. The indicative turning areas do not have dimensions and do not demonstrate conclusively that it would be possible to turn cars on the frontage if the other parking space for either dwelling was occupied.
 15. Were planning permission to be granted a condition could require the provision of the required visibility splays and turning space. However a detailed drawing showing that the splays can be achieved within land owned by the appellant or Kent County Council and that adequate turning space can be provided is necessary to demonstrate that such a condition could be implemented and would be effective. Without it, I cannot be confident that the Highway Authority's requirements could be achieved.
 16. I therefore conclude that the proposal would be harmful to the safe and efficient use of the highway. Accordingly, in this respect, the proposal would conflict with Policy DBE3 of the Local Plan which, amongst other things, promotes the safe movement of pedestrians, cyclists and cars. However, I find no conflict with Policy T9 of the Local Plan which relates to parking standards as I note that the Highway Authority accepted that the standard would be met.

Other Matters

Designated habitats sites

17. The appeal site lies in the catchment of the River Stour, within which the water environment is one of the most important for water-dependent wildlife in the United Kingdom. That water environment includes Stodmarsh National Nature Reserve / Site of Special Scientific Interest (NNR / SSSI). The NNR / SSSI is internationally important for its wildlife and is consequently designated as a Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site.
18. The qualifying features of the SPA are its assemblages of waterbirds and breeding birds; Great bittern, Gadwall, Northern Shoveler and Hen Harrier. The Desmoulins whorl snail is the qualifying feature of the SAC. The conservation objectives of the SPA and SAC are, in summary, to ensure that the integrity of the site is maintained in order to protect the habitats and the birds and snail that depend on them.
19. Natural England (NE) has identified that some of the designated Stodmarsh Lake units are in an unfavourable condition due to their existing levels of

nutrients (both phosphorus and nitrogen), thought to be primarily from wastewater from existing housing and agricultural sources. The nutrients cause eutrophication and adversely affect the protected habitats and species. Whilst research is ongoing, the designated sites are therefore thought to be at risk from additional nutrient inputs, including from new developments coming forward in the Stodmarsh catchment.

20. Although there remains some uncertainty, NE has adopted a precautionary approach and is of the view that a likely significant effect on the designated sites due to the increases in wastewater from such new development cannot be ruled out. It has not been demonstrated that the proposal would be nutrient-neutral. Whilst the additional nutrients from the proposal would be limited and below the threshold to require an Environmental Impact Assessment, when considered in combination with other plans and projects, the proposal is likely to have a significant effect on the integrity of the designated sites.
21. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects.
22. Therefore, had I reached different conclusions on the main issues, it would have been necessary for me to undertake an AA and give further consideration to the likely effectiveness of any mitigation measures. However, as I am dismissing this appeal for other reasons, this has not been necessary.

Other considerations

23. The appellant refers to other developments on the A28 but has not demonstrated that these are directly comparable to the proposal before me. The appellant also draws my attention to an indication in relation to the Chartham Neighbourhood Plan to a housing need in Chartham. However, I have no details of the extent or nature of this housing need, nor evidence that the Plan has been adopted and therefore forms part of the development plan. Neither has it been put to me that the allocation of the appeal site is being taken forward through the Neighbourhood Plan.
24. I note the appellant's indication that the proposed properties will be rented, but no evidence has been provided that there is a particular demand for rented properties within the locality of the appeal site. Even if there is, I have no mechanism before me to secure the proposed dwellings being and remaining for rent. Consequently, I have given these other considerations little weight in my decision.

Conclusion

25. I have found above that the proposal is contrary to the development plan. There are no considerations that indicate that a decision should be made other than in accordance with the development plan. For this reason, and having regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR