



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: 18th August 2021

Appeal Ref: APP/J2210/W/21/3270847
109 Greenhill Road, Herne Bay, CT6 7QW

- 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 S Hills against the decision of Canterbury City Council.
 - The application Ref CA/20/01598, dated 20 July 2020, was refused by notice dated 21 September 2020.
 - The development proposed is erection of 2 semi-detached dwellings and associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is within the zones of influence of the Thames Estuary and Marshes Special Protection Area (SPA), the Medway Estuary and Marshes SPA and The Swale SPA, known collectively as the North Kent SPAs, and the Thanet Coast and Sandwich Bay SPA. The Council's second reason for refusal related to the lack of contribution towards mitigation for the likely significant effects of the proposal on the integrity of these designated habitats sites. However, during the course of the appeal, the appellant submitted a unilateral undertaking in this regard. I return to this matter below.
3. 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 had the opportunity to comment.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the setting of the Grade II listed 109 Greenhill Road.

Reasons

5. Greenhill Road is a mature residential area primarily comprising bungalows, chalet bungalows and 2-storey dwellings of varying designs. No 109 Greenhill Road is located on the corner of Greenhill Road and West View Close, a small cul-de-sac of semi-detached bungalows and chalet bungalows set back from the road with hardstandings and lawns to the frontages, giving the Close a distinctive character. No 109 is bounded by a wall in a state of partial disrepair with large conifer trees to the southern and eastern boundaries.
6. The appeal site is in the south-eastern corner of the garden of No 109 with front and side elevations to West View Close. The proposed dwellings would be

2-storey and sited very close to the road, with only very limited room for any planting on the frontages to soften their appearance. Their height, form and layout would therefore be at odds with the prevailing pattern of development and character of the Close, in the context of which the proposed dwellings would be seen. Landscaping would not provide adequate mitigation given the limited space for planting and the inability to secure the retention of planting for the lifetime of the development.

7. In addition, No 109 is listed as Grade II. In assessing the effects of the proposal I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preserving the setting of a listed building. The revised Framework sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets and any harm to a heritage asset requires clear and convincing justification. Development within the setting of a heritage asset can be harmful to its significance.
8. No 109 is a former farmhouse of two principal storeys with a third at attic level, believed to date originally from the 18th century, although with 20th century alterations. The wider setting of the farmhouse has changed with the development of the original farmland in the 19th and 20th centuries. An outbuilding believed to date from the 19th century is adjacent to the house and, predating 1 July 1948 and with a clear relationship with the farmhouse at the date of listing, is deemed to be curtilage listed.
9. The open garden of No 109 is an important part of its setting, helping to distinguish the farmhouse from other properties on Greenhill Road and thus emphasising its historic importance in the area. The proposed development, whilst at the furthest point from the main house, would erode this important openness and diminish the distinctiveness of the farmhouse and its setting.
10. The main view of No 109 and the outbuilding is from Greenhill Road to the west, with a current backdrop of the tall conifers partially screening the bungalows on West View Close and providing an attractive backdrop to the historic buildings. Even if the trees were removed, the low height of the bungalows relative to that of No 109 would not detract significantly from the setting of the farmhouse and outbuilding and the appreciation of the ancillary relationship of the outbuilding to the main dwelling.
11. In contrast, the rear elevations of the proposed dwellings would be clearly visible in the context of the farmhouse and outbuilding from Greenhill Road. Although designed with a low hipped roof, the juxtaposition of these 2-storey dwellings and the farmhouse and outbuilding would detract from the setting of these historic buildings and blur their currently clear relationship to each other, thus diminishing the appreciation of their significance.
12. Furthermore, whilst partially screened by the boundary wall and tall conifers, both the farmhouse and outbuilding can be seen from West View Close to the south and east. The view from the east is primarily of the rear wing of the farmhouse, possibly dating from later than the original house and thus potentially allowing an appreciation of the evolution of the building over time. The proposed parking area could open up a greater view of the outbuilding from the south but the proposed dwellings would block or intrude into views of the rear wing.

13. I therefore find that the proposal would be harmful to the significance of No 109 and to the ability to appreciate that significance. I consider this harm to be less than substantial, which should therefore be weighed against the public benefits of the proposal in accordance with paragraph 202 of the revised Framework. The proposal would provide two new dwellings which would accord with the Government's aim of significantly boosting the supply of homes. However, two dwellings would be a very limited contribution to the housing stock with very limited associated economic benefits.
14. The Council's Housing Land Supply Statement 2019/20 indicates that the Council can demonstrate 6.62 years' supply of deliverable housing sites for the period 2020-2025, based on a methodology accepted by the Local Plan Examination Inspector. As the Local Plan was adopted in 2017, the housing requirement figure identified in its strategic housing policies should be used rather than the standard method for the purpose of calculating the 5-year housing land supply figure in accordance with the Planning Practice Guidance. I am therefore satisfied that the Council can demonstrate a 5-year supply of deliverable housing sites and that paragraph 11 d) of the Framework is thus not engaged.
15. The repair / rebuilding of the boundary wall would be a public benefit as would the proposed biodiversity enhancements. However, both of these would be very limited and are not reliant on the proposed development. Whilst three local residents have welcomed the proposed removal of some of the conifers, this would principally be a private rather than a public benefit. I do not find that the trees detract from the significance of the listed building and any increased visibility of the farmhouse as a result would be negated by the blocking of views by the proposed dwellings. The increase in garden area from the reduction of the paved driveway would also principally be a private benefit and would not outweigh the loss of garden to the proposed development.
16. The public benefits of the proposal therefore do not outweigh the harm to the significance of No 109 and the ability to appreciate that significance, to which great weight should be given. Consequently there is no clear and convincing justification for this harm.
17. I therefore conclude that the proposal would be harmful to the character and appearance of the area and to the setting of No 109, thus failing to preserve that setting. Accordingly, in this respect, the proposal would conflict with Policy DBE3 of the Canterbury District Local Plan (2017) (the Local Plan), which seeks high quality design that has regard to, amongst other things, the character, setting and context of the site and the impact on local townscape character. The proposal would also conflict with Policies HE1 and HE4 of the Local Plan which, amongst other things, seek to conserve and enhance the significance of heritage assets and their settings, including listed buildings .

Other Matters

Designated habitats sites

18. The North Kent SPAs are wetlands of international importance comprising a mosaic of habitats including saltmarshes, grazing marshes and saline lagoons. These habitats provide wintering and breeding habitats for important assemblages of wetland bird species, particularly wildfowl and waders, as well as supporting migratory birds on passage. These breeding and wintering bird

- populations include avocet, little tern and dunlin and form the qualifying features of the three SPAs.
19. The Thanet Coast and Sandwich Bay SPA (TCSBSPA) includes a wide variety of coastal habitats supporting an important breeding population of little tern and important wintering populations of golden plover and turnstone, which together comprise its qualifying features. The conservation objectives for all the SPAs are to ensure that the integrity of the site is maintained or restored as appropriate by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats, and the population and distribution, of their qualifying features.
 20. Disturbance from recreational activities by visitors to the SPAs is considered by Natural England (NE) to have a likely significant effect on the important bird species. 'Zones of influence', in which the majority of regular visitors to the SPAs live, have been defined for the SPAs. Net additional housing development within these zones is likely to increase recreational pressure with consequent likely adverse impacts on the integrity of the SPAs. The proposal would result in two additional dwellings and would therefore be likely to lead to an increase in the recreational use of the SPAs, particularly in combination with other plans and projects. It would thus have a likely significant effect on the integrity of the designated sites.
 21. Since the determination of the application, NE has identified that the water quality of some of the lakes of the Stodmarsh National Nature Reserve and Site of Special Scientific Interest (NNR / SSSI) has deteriorated due to increased nutrient (nitrogen and phosphorus) loading, potentially arising in part from wastewater from new residential development. The NNR / SSSI is also designated as a SPA, a Special Area of Conservation (SAC) and a Ramsar site being internationally important for its wildlife, particularly its assemblages of waterbirds and breeding birds.
 22. The conservation objectives of the SPA and SAC are to ensure that the integrity of the site is maintained in order to protect the habitats and the species that depend on them. Increased nutrient loading is potentially having a deleterious effect on the integrity of the Stodmarsh designated sites and I have no evidence that the proposed dwellings would be nutrient neutral.
 23. The appellant contends that foul water from existing and proposed development in Herne Bay is discharged through a sewer network towards the coast to the north, away from Stodmarsh. If this is the case, there would be no pathway and no likely significant effect on the integrity of the Stodmarsh designated sites arising from the proposal. However, I do not have any specific evidence from the Council's website, Southern Water Services or otherwise to confirm that this would be so for the appeal site.
 24. 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.
 25. Therefore, had I reached a different conclusion on the main issue, it would have been necessary to undertake an AA in respect of the likely significant effect on the North Kent SPAs and TCSBSPA and possibly on the Stodmarsh

SPA. In doing so, I would have had regard to potential measures to mitigate the effect of the proposal on the designated sites and to the appellant's unilateral undertaking to contribute towards the mitigation measures for the North Kent SPAs and TCSBSPA. However, as I am dismissing this appeal for other reasons, this has not been necessary.

Other considerations

26. I acknowledge that the principle of development is acceptable as the site is within the urban area of Herne Bay and that it is close to shops and a bus route. I note that an interested party supports the proposal. However, none of these considerations are sufficient to outweigh the harm I have identified above.

Conclusion

27. I have found above that the proposal would conflict with the policies of the development plan taken as a whole. There are no considerations, including the policies of the Framework, that indicate that a decision should be made other than in accordance with the development plan.

28. For this reason, and having regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR