



Appeal Decision

Site visit made on 17 August 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021.

Appeal Ref: APP/J2210/W/20/3271356

Land rear of 8 The Glen, Nethergong Hill, Upstreet, CT3 4DL

- 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 Featherstone against the decision of Canterbury City Council.
 - The application Ref CA//19/02103, dated 24 October 2019, was refused by notice dated 8 June 2020.
 - The development proposed is erection of a self-build two storey dwelling with associated parking and amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The effect of the proposed dwelling on the character and appearance of the surrounding area and on the integrity of the Thanet Coast and Sandwich Bay and the Stodmarsh Special Protection Areas.

Reasons

Character and appearance

3. The appeal site comprises an enclosed grassed area to the rear of the terraces at The Glen. It is accessed by a track from Nethergong Hill which also serves the bungalows at Quantocks and Badgers Holt. The proposal would have a rectangular footprint and would be sited fairly centrally on the plot. The accommodation would be on two floors.
4. Policy DBE3 of the Canterbury District Local Plan of 2017 sets out principles of design for the District. One consideration is the character, setting and context of the site but backland development is not precluded. The existing properties at Quantocks and Badgers Holt lie behind the row of houses fronting the road and development in depth has also taken place at Abingdon Grove to the north-west. Because of this, the position of the proposed dwelling would be compatible with the pattern of development nearby.
5. Therefore the proposal would not harm the character and appearance of the surrounding area and would comply with relevant parts of Policy DBE3.

Integrity of the Special Protection Areas

6. The site is within the zone of influence of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). By increasing the population and in combination with other housing development in Canterbury, there would be a likely

significant effect on the SPA due to recreational disturbance to over-wintering birds. To avoid harmful effects the submitted planning obligation would secure the appropriate financial contribution for a 3 bedroom dwelling as required by the Strategic Access Management and Monitoring Plan. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the Thanet Coast and Sandwich Bay SPA.

7. Stodmarsh is an SPA, a Ramsar site, a Special Area of Conservation and a Site of Special Scientific Interest. It is a wetland of national and international importance comprising open water bodies, reed beds, grazing marshes and alder-carr. These provide wintering and breeding habitats for a range of important assemblages of wetland bird species, especially wildfowl and waders. The conservation objective is to ensure that the integrity of the site is maintained or restored.
8. There are currently high levels of nitrogen and phosphorus input into the water environment and evidence that these nutrients are causing eutrophication. In turn, this deterioration is impacting on the protected habitats and species. Because it would increase wastewater discharge, further housing development across the Stodmarsh catchment area could exacerbate the existing impacts and so threaten the conservation status of the SPA. To avoid this, the advice of Natural England is that development should achieve nutrient neutrality.
9. The matter in dispute is whether the appeal site is within the Stodmarsh catchment. The maps provided to assist in this regard are quite large scale which hinders interrogation. However, on the plan provided by the Council and enlarged by the appellant, it is outside the yellow shaded area covered by the Westbere wastewater treatment works. However, in Figure 1 of Natural England's advice to local authorities on nutrient neutrality, the site appears to be within the Sarre Penn and River Wantsum catchment. This is one of the areas to which that advice applies. On that basis there would be a pathway between the proposed development and the SPA.
10. The proposed dwelling would be linked to the mains sewer. No evidence has been provided as to where its wastewater would ultimately be treated and discharged. It is difficult to see where this would occur outside of the catchment area. This is especially given the location of the site in relation to Stodmarsh and the surrounding water courses. There is no authoritative advice to settle this question but there is a need for a precautionary approach. Indeed, the maps and the situation on the ground indicate that a risk to the interest features and conservation objectives of the SPA cannot be excluded.
11. The effect of one additional dwelling is likely to be small but, in combination with other development, the evidence points to it having a likely significant effect on the SPA. No mitigation is proposed to achieve nutrient neutrality. Therefore, following an appropriate assessment, the proposal would adversely affect the integrity of the Stodmarsh SPA and so it would not accord with Local Plan Policy LB5 which protects sites of international conservation importance.

Other considerations

12. The flank wall of the proposed house would be about 12m from the front of the adjoining bungalows. The intervening area is used for parking and bin storage. Whilst the side of the proposal would be sizeable, the separation would be sufficient to ensure no undue visual dominance. Because of this gap and in the

absence of clear evidence to this effect, daylight would not be significantly curtailed. The angle of vision allowed by the rooflights would also be unlikely to give rise to overlooking. There is no reason to suppose that use of the garden would create excessive noise levels.

13. No objection has been raised by the highway authority on safety grounds as there would be space for parking and manoeuvring. The driveway to the appeal site is narrow but short in length. Further use of it in connection with the proposal could affect access by delivery and emergency vehicles and bin collection arrangements. However, the traffic associated with one additional dwelling would be unlikely to be a major source of inconvenience for other residents in those respects. There would be no conflict with the provisions of Policy DBE3 relating to amenity and highways.
14. The dwelling is intended to be self-build and the appellants have worked closely with the architects in the design of their proposed home. The Framework refers to addressing the needs of groups with specific housing requirements. Planning Practice Guidance specifically highlights the benefits of this type of housing in diversifying the housing market and increasing consumer choice. However, whilst not doubting the appellants' intentions, there is no mechanism in place to ensure that the plot would be built out in accordance with the provisions of the Self-Build and Custom Housebuilding Act of 2015. The evidence in support is also limited. In any event, by virtue of the Conservation of Habitats and Species Regulations 2017, agreement cannot be given to the project because the integrity of a European site would be adversely affected.

Conclusion

15. There would be no harm to the character and appearance of the area. However it has not been shown that the development would be outside of the Stodmarsh catchment or that it would be nutrient neutral. The resulting adverse effect on the integrity of the Stodmarsh SPA is decisive and because of this the proposal would not accord with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR