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## Appeal Decision

Site visit made on 10 August 2021

**by Guy Davies BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>ST</sup> September 2021**

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**Appeal Ref: APP/Z2260/W/20/3262359**

**Greensleeves, Dane Court Road, Broadstairs CT10 2RD**

- 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 N Bracey against the decision of Thanet District Council.
  - The application F/TH/19/1563, dated 15 November 2019, was refused by notice dated 1 May 2020.
  - The development proposed is the construction of 3 no. detached dwellings with associated attached garages.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Thanet District Council Local Plan to 2031 (the 'Local Plan') was adopted on 9 July 2020, after the Council's decision but before the submission of the appeal. It supersedes the saved policies from the former Thanet Local Plan 2006.
3. A unilateral undertaking has been submitted with the appeal. The undertaking obligates the landowner to pay a contribution towards measures to mitigate harm being caused to the Thanet Coast and Sandwich Bay Special Protection Area and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest. I comment further on the undertaking in my reasoning.
4. During the course of the appeal, the National Planning Policy Framework (the 'Framework') was revised. Both main parties were given the opportunity to comment on the revised version in so far as it relates to the appeal.

### Main Issues

5. The main issues are the effect of the development on:
  - the separation between settlements;
  - the character and appearance of the area, including trees and landscaping; and
  - sites of ecological value.

### Reasons

*Separation between settlements*

6. Policy SP25 of the Local Plan seeks to safeguard the identity of Thanet's settlements by limiting development within the countryside between them, designated as Green Wedges on the Policies Map. The Green Wedge between Broadstairs and Margate includes the area of woodland in which plots 2 and 3 are proposed but does not include plot 1 or Greensleeves and its curtilage.
7. Policy SP25 only allows new development in Green Wedges if it can be demonstrated that it would not be contrary to the aims of the Green Wedges. Those aims relevant to the current appeal are safeguarding open countryside to maintain physical separation and avoid coalescence of the towns, and conserving, protecting and enhancing the essentially rural and unspoilt character of the countryside separating the urban areas.
8. Development on plots 2 and 3 would introduce development into an area of woodland that is currently undeveloped (and therefore 'open' in the sense meant by the policy wording) and forms part of the Green Wedge. The dwellings on these plots would be visible from surrounding public vantage points given their size and the removal of trees that would be necessitated by the development. The separation between Broadstairs and Margate is wide at this point, and the proposed development is relatively modest in size, but it would nevertheless erode the gap between the two towns, albeit to a limited extent.
9. The supporting text to Policy SP25 notes that *'although allowing some small scale development may not significantly diminish the Green Wedge, the cumulative impact of several small scale developments could be of detriment to the Green Wedges and cause new development pressures where there are currently none. It could also set a precedent of releasing Green Wedge sites and result in further development within the Green Wedges which would diminish their functions'*. I consider those arguments are relevant to this proposal and carry weight.
10. The appellant has drawn attention to two Court of Appeal judgements<sup>1</sup>. The Liverpool case confirms that it is a matter of planning judgement as to whether any particular development would conflict with a green wedge type of policy. The Braintree case addresses the meaning of the word 'isolated' in what is now paragraph 80 of the revised Framework. I agree with the appellant that this site is not isolated in that it is located on the edge of residential development at Dane Court Gardens. However, the expansion of isolated groups of houses or other development is only one example of what Policy SP25 is seeking to avoid; it applies with just as much relevance to development on the edges of the towns where that development would erode the function and purpose of the Green Wedges.
11. The appellant has also drawn attention to 3 appeal decisions<sup>2</sup>, which involved development within the Green Wedge between Broadstairs and Margate. In 2 of the 3 appeal decisions it was concluded that the proposed developments caused harm to the aims of the Green Wedge, although for the Westwood Lodge decision other considerations outweighed that harm. All 3 decisions pre-date the adoption of the current Local Plan and were made at a time when the

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<sup>1</sup> Liverpool Open and Green Spaces Community Interest Company, R v Liverpool City Council [2020] EWCA Civ 861 and Braintree District Council v SSCLG et al [2018] EWCA Civ 610

<sup>2</sup> APP/Z2260/W/16/3151686 – Westwood Lodge, Poorhole Lane, Broadstairs; APP/Z2260/W/17/3180810 – Brooke Mockett Trust Land and Former Gas Works, St Peter's, Broadstairs; APP/Z2260/W/19/3225218 – Land to the rear of 177 College Road, Margate

Council was unable to demonstrate a 5 year housing land supply. The circumstances of each site also differ from the current proposal in terms of the scale of development, their relation to the existing urban area and their impact on the countryside. While I have had regard to these decisions, given the differences between them and the current proposal, they only carry limited relevance to this appeal.

12. I conclude that the proposed development on plots 2 and 3 would have an adverse, albeit limited, effect on the Green Wedge and would as a result conflict with Policy SP25 of the Local Plan in that it would not safeguard the countryside and would fail to conserve, protect and enhance the essentially rural and unspoilt character of the countryside separating the urban areas of Broadstairs and Margate.

#### *Character and appearance*

13. The site is heavily wooded with mature trees on the block of land immediately to the north of the neighbouring property at Windrush and on a narrower piece of land beyond that. The private drive to Greensleeves runs along the eastern boundary of the site. The group of trees is a distinctive feature in the landscape and characteristic of the small blocks of woodland and wooded field boundaries that form part of the countryside. The wooded nature of the site provides an appropriate transition between the open farmland and the edge of the built up area.
14. The proposed development would result in the significant loss of mature trees both within the block of land to the north of Windrush and also along the boundary of plot 1. The loss of mature trees would be apparent in public views from Dane Court Road, a public footpath running out from St Peter's graveyard, and a narrow lane to the west of the site (Shallows Road) as well as the reduction in the canopy of the trees being visible from Dane Court Gardens. Some trees would remain along the western and part northern boundaries of plots 2 and 3, and along the driveway, but these would not be sufficient to screen the proposed buildings in views of the site. The largely unbroken canopy, which is a feature of the woodland, would be lost.
15. The proposed dwellings would be considerably larger than those in the immediate vicinity, which are all bungalows. Their size, proximity to their boundaries and the proximity between the dwellings on plots 2 and 3 would result in a development that would appear cramped and overdeveloped. Notwithstanding the additional planting that is proposed<sup>3</sup>, the proximity of the buildings to their boundaries would prevent any substantial screen planting, and the lack of space would prevent new trees growing to the size and maturity of those currently on the site. This would be particularly acute on plot 1 where the narrow width of the plot and the close proximity of the house and garage to the rear boundary would result in a hard edge to the adjacent farmland.
16. The landscape and visual assessment<sup>4</sup> submitted with the appeal acknowledges that the initial visual impact on the landscape would be moderate to high from many viewpoints. For the reasons given above I do not consider the replacement planting would be able to mitigate that visual impact in the medium or long term to any significant extent. The harm caused to the

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<sup>3</sup> HW and Co, Landscape Strategy, October 2020

<sup>4</sup> HW and Co, Landscape and Visual Assessment Issue 2, October 2020

landscape would therefore persist well beyond the initial impact of the development.

17. I conclude that the proposed development would harm the character and appearance of the countryside through the loss of woodland trees, the cramped nature of the development, and the lack of space to provide adequate replacement screen planting. Consequently, it would conflict with Policies SP24, SP26 and QD02 of the Local Plan, which seek to protect the countryside, conserve and enhance landscape character, and secure high quality design and layout.

### *Ecology*

18. The site lies within the zones of influence of the Thanet Coast and Sandwich Bay Special Protection Area and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest, which are recognised as sites of national and international ecological importance for their migratory bird populations. The proposed dwellings, when taken in combination with other residential development, could have an adverse impact arising from additional recreational pressure. The appellant is willing to contribute to an agreed management and monitoring plan aimed at mitigating that impact and has submitted a unilateral undertaking which would secure the appropriate contribution.
19. While the undertaking would appear to satisfactorily address the Council's fourth reason for refusal, given my overall conclusion on the appeal it has not been necessary for me to carry out an appropriate assessment, and I have not considered this issue any further.

### **Other Matters**

20. A scheduled monument lies to the north west of the appeal site. Historic England agree with the conclusions of an archaeological impact assessment<sup>5</sup> that the development would not have any appreciable impact on the setting of the scheduled monument. The potential for investigating any non-designated archaeological remains on the site itself could be secured through condition. I am therefore satisfied that the scheduled monument would not be affected by the development and is not a material planning consideration in this case.

### **Planning Balance**

21. The provision of an additional 3 dwellings would be of modest benefit in helping to meet housing demand. There would also be a temporary economic benefit during the construction period. However, the Council has recently adopted a Local Plan that identifies land for new housing. Given the planned approach to development in the area, the additional dwellings are of limited benefit.
22. I have found that the development would cause harm to the aims of the Green Wedge policy, and would also harm the character and appearance of the countryside. The development would as a result conflict with the development plan when taken as a whole.
23. The Council acknowledges that it has not achieved its most recent housing delivery test. In such circumstances, paragraph 11 of the Framework requires planning permission to be granted unless the application of policies in the

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<sup>5</sup> Thanetarch Archaeological Services, Archaeological Desk Based Impact Assessment, August 2019

Framework that protect areas of particular importance provides a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

24. I consider that the adverse impact of the development on the aims of the Green Wedge and the character and appearance of the countryside would significantly and demonstrably outweigh the limited benefits. The 'tilted' balance provided by paragraph 11 of the Framework, which is a material consideration, is therefore not sufficient in this case to outweigh the conflict with the development plan.

### **Conclusion**

25. I conclude that the appeal should be dismissed.

*Guy Davies*

INSPECTOR

