



Appeal Decision

Site visit made on 9 August 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/J2210/W/21/3278122

Walden Lodge, Pean Hill, Whitstable CT5 3BG

- 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 Mrs Turner against the decision of Canterbury City Council.
 - The application Ref CA/21/00156, dated 22 January 2021, was refused by notice dated 18 March 2021.
 - The development proposed is the erection of detached bungalow with associated parking and new vehicle crossovers following demolition of outbuildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal.
3. As part of this appeal the appellant submitted an additional drawing with regard to visibility splays. Although an appeal should not be used to evolve a scheme, the drawing appeared to be seeking to address a point previously made to the Highway Authority. The Highway Authority has provided comments on the drawing and I am therefore satisfied that neither party has been prejudiced on this occasion.

Main Issues

4. The main issues are a) whether or not the appeal site is an acceptable location for the development proposed; b) the effect of the proposed development on the character and appearance of the area; c) the effect of the proposed development on highway safety, with regard to the adequacy of the proposed visibility splays for the access; and d) the effect of the proposed development on the integrity of designated habitats sites.

Reasons

Location

5. Policy SP4 of the Canterbury District Local Plan 2017 (the 'Local Plan') seeks to focus new housing development within the Borough's main settlements, including Whitstable. Residential development is also permitted in smaller settlements and villages, subject to certain criteria. Blean is identified in the Local Plan as a local centre where the provision of new housing is supported.

6. The appeal site lies to the north of Blean and to the south of Whitstable. The appellant describes Pean Hill as a long-established settlement. Nevertheless, the appeal site is not within an area where residential development is encouraged by Policy SP4 of the Local Plan. As proposed, the dwelling would not comply with the broad locational objectives for the District in terms of residential development.
7. Policy HD4 of the Local Plan establishes circumstances where a new dwelling in the countryside could be acceptable. The appeal proposal does not meet the 4 criteria set out in this policy. However, the reasoned justification for the policy does appear to be primarily focussed on isolated dwellings and although the wording of the Policy itself is not limited solely to isolated dwellings, the categories of development stated are very similar to those set out in Paragraph 80 of the Framework, which addresses the issue of isolated dwellings. The proposed dwelling would not be isolated and therefore this policy does not appear to be applicable in this instance.
8. Policy SP1 of the Local Plan largely reiterates the presumption in favour of sustainable development in the Framework. However, the Framework provides that opportunities to promote walking, cycling and public transport should be pursued, and patterns of growth managed accordingly. The Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
9. In this respect the appellant has shown that there are regular bus services from near the appeal site to Blean, which has some shops and facilities, as well as bus services to the larger settlements of Canterbury and Whitstable. There is a footpath from the appeal site which would provide an accessible route to the bus stop and services heading north to Whitstable. Bus stops for services to the south are further away and involve crossing the A290.
10. Whilst there are footpath links to Whitstable, it involves having to cross the A290 at certain points and traversing the junction with the A299 on the southern fringes of Whitstable. There is a footpath through to Blean, which similarly involves having to cross the A290. The footpath appeared to be quite narrow in places. There is some street lighting along the footpaths although in places there are large gaps between each light, which would not encourage people to use the footpath at night or after dusk during the winter months. These factors together with the distances involved, particularly for a round trip, would be likely to discourage the use of the footpath, especially during the winter months or periods of inclement weather.
11. I noted that the road south to Blean and Canterbury, and north to Whitstable, is an A-class, single carriageway road with a 40mph speed limit for large parts of the journey and no dedicated cycle lane. Whilst I accept that the distances involved would, in theory, be cyclable, using a bike to get to other centres does not appear to be something which would be overly attractive to many people. The limited street lighting and distances involved would be a further discouragement particularly during hours of darkness or periods of poor weather.
12. Given that future occupiers of the proposed dwelling are likely to require access to shops, education establishments, health services and other such facilities, it seems to me that public transport or the walking or cycling options are not likely to be attractive for anything but very infrequent journeys. Accordingly,

future occupiers are likely to be reliant on private motor vehicles to meet the majority of their day-to-day needs. This is the least sustainable travel option.

13. For the reasons set out above, the site would not represent an acceptable location for the development proposed. The proposal would therefore be contrary to policies SP1 and SP4 of the Local Plan which, amongst other things, seek to limit development in the open countryside and thus minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also be contrary to the provisions of the Framework.

Character and Appearance

14. There are dwellings immediately to the north and south of the appeal site, with further buildings beyond them in either direction. There is a dwelling almost opposite the appeal site but generally buildings are on the western side of the road. The pattern of development is broadly linear, following the line of the A290. Gaps between buildings together with their positioning and scale allows for views between and over buildings, through to the open countryside. The area generally has an open and spacious character, to which the appeal site positively contributes. That there may be a clear beginning and end to this extended row of properties as one might pass along the A290 does not alter my conclusions in this regard.
15. The appellant suggests that the redevelopment of this residential curtilage with a dwelling of similar scale, materials and positioning to that of other nearby dwellings would represent an infill development and this would not be isolated or out of character with the existing context. These factors would help to reduce the visual effect of the development. Nevertheless, the new dwelling would be visible from public vantage points and noticeably infill an existing gap along the road frontage, extending the amount of built form in this location.
16. Whilst there are some outbuildings to the side of the existing dwelling, and at the rear of the appeal site, they appear very differently to that of an independent residential unit with its own access, which is the proposal before me. Accordingly, by introducing a new dwelling on land which is largely free of built form, the proposal would represent a visual intrusion when viewed from the road that would erode the open and spacious character of the area.
17. In this instance, whilst there are factors which limit the overall scale of the harm, I find that additional built form would reduce the openness of the area and overall there would be a harmful effect on the character and appearance of the area.
18. Accordingly, the proposal would be contrary to Policy DBE3 of the Local Plan which, amongst other things, seeks to protect and reinforce the local character and context of an area. The proposal would also be contrary to the Framework, which, amongst other things, seeks to ensure developments are sympathetic to local character.

Highway Safety

19. There is disagreement between the main parties as to the appropriateness of the northern visibility splay and whether or not both the north and south visibility splays would be within land owned by third parties.

20. The site lies to the south of a left hand bend in the A290 and therefore the visibility in that direction is ultimately limited by the alignment of the road. Whilst the appellant suggests that other developments in the vicinity have required only a 2m x 43m visibility splay for access onto the A290 I have no details before me. Without such details such as location, context or road alignment it is not possible to draw any direct parallels.
21. The Highway Authority has sought a 2.4m x 120m splay to the south and whilst seemingly preferring a similar splay to the north, appear willing to accept a reduced splay in that direction, if supported by survey evidence. I have sympathy with the appellant regarding the timing of the appeal and that any survey results might not necessarily have revealed any longer-term implications of the coronavirus on traffic flows. However, the absence of any information in this regard weighs against the proposal in terms of being able to demonstrate that an 80m northern visibility splay is safe and therefore appropriate in this instance.
22. A visual inspection of the site suggests there are small strips of land between the back edge of the footpath and the front boundaries of some properties. In some cases, this land exhibits the characteristics of a highway verge but in others it is less clear. The appellant indicates that all this land is indeed highway land and that the visibility splays could therefore be provided. Reference is made to Land Registry, but no details are provided.
23. It may be possible to attach a negatively worded condition to protect the visibility splay. Similarly, it would be possible to ensure that appropriate on-site turning and gradients were provided before the occupation of any dwelling. However, this would not overcome the current absence of information to demonstrate that the northern visibility splay would not cause harm to highway safety. To my mind it would not be appropriate to grant a substantive permission whilst such significant reservations persist.
24. Given that the proposed visibility splays for the access have not been shown to ensure highway safety, the proposal would be contrary to Policy DBE3 of the Local Plan. This policy, amongst other things, seeks to ensure the safe movement of pedestrians, cyclists and cars within and around proposed developments.

Designated Habitats Sites

25. The appellant has provided a signed Unilateral Undertaking (UU) dated 24 January 2022 to address the issue of recreational access to the Thanet Coast and Sandwich Bay and the Thames Medway and Swale Special Protection Areas. The appellant has also provided further information and details regarding the issue of nutrient neutrality and such effects on the Stodmarsh Special Area of Conservation, Special Protection Area and Ramsar site.
26. However, given my findings in respect of the other main issues, it is not necessary for me to ascertain the appropriateness of the scheme or the necessity for mitigation within an Appropriate Assessment. Consequently, as I am dismissing the appeal for other reasons, I have not taken this matter further.

Other Matters

27. I note that the site is not within a protected area. The scale, design and siting of the dwelling is not said to give rise to any harmful impacts upon the occupiers of neighbouring properties. However, these factors in themselves do not mean that the current scheme is acceptable and do not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.
28. I note that the dwelling would be energy efficient and enhancements to biodiversity could be secured by condition. These are benefits to which I attribute a small amount of weight.

Planning Balance and Conclusion

29. The proposal would conflict with the main Local Plan policies SP1 and SP4 which establish the strategy and location for new housing in the district. Furthermore, the proposal would cause harm to the character and appearance of the area and has not demonstrated that highway safety could be assured, contrary to Policy DBE3 of the Local Plan. I therefore find that the proposal would be contrary to the development plan taken as a whole.
30. However, the appellant has queried the ability of the Council to meet its 5-year housing land supply, in particular drawing my attention to a recent judicial review and a failure to meet housing delivery targets. Footnote 8 to paragraph 11 (d) of the Framework directs that where the Housing Delivery Test shows that the delivery of housing has been substantially below the housing requirement over the past three years, Paragraph 11(d) is engaged. On this basis, the policies which are most important for determining the appeal should be considered to be out of date.
31. The appellant suggests that Policy SP1 provides a basis on which to make a 'localised' decision which would overcome any potential application of policies in the Framework that protect habitats sites [one of the areas referred to in footnote 7 to paragraph 11 d) i)]. However, the Framework is a material consideration to which I must have regard in my decision.
32. The Government's objective is to significantly boost the supply of housing. The proposal would represent the use of previously developed land and also accord with the Framework's support for windfall sites. The provision of a single dwelling, by its nature, would make only a small contribution towards housing supply although I accept that the extent of the under-delivery in the area's housing supply puts added emphasis on all new housing developments, of whatever scale. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment. Future occupiers may make a small contribution towards supporting the services in the surrounding and wider area. However, given the small scale of the proposal, the provision of this additional house would attract only modest weight.
33. Conversely, the appeal site is not well located in terms of its accessibility to local services and facilities and will necessitate the use of a vehicle, contrary to the Framework's approach towards sustainable locations and transport. The proposal would also be contrary to the Framework by virtue of being unsympathetic to local character and being likely to cause harm to highway

safety. These harms are permanent and unlikely to diminish over time and as a consequence would be worthy of substantial weight.

34. Accordingly, even if I were not to apply Footnote 7 in relation to habitats sites, the adverse impacts significantly and demonstrably outweigh the benefits such that the proposal does not represent sustainable development.
35. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires me to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.
36. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR