



Appeal Decision

Site visit made on 5 October 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2022

Appeal Ref: APP/X2220/W/21/3287917

Barnsole House, Barnsole Road, Staple, CT3 1LE

- 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 Rex Cadman against the decision of Dover District Council.
 - The application Ref 21/00590, dated 7 April 2021, was refused by notice dated 11 June 2021.
 - The development proposed is a detached dwelling for residential staff accommodation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the proposed development on the character and appearance of the area with particular regard to trees and on the living conditions of the future occupiers of an adjoining dwelling under construction.

Reasons

Character and appearance

3. The proposed dwelling would be located within a commercial yard and is intended for occupation by a member of staff and his family. Permission has been given for non-compliance with a condition attached to a previous permission which required the area to be used for car parking.
4. The proposed dwelling would be large but has been designed to resemble an adjoining storage barn in a Kentish vernacular style. Its rear elevation of over 31m in length would be positioned very near to the northern site boundary which is marked by a fence. Immediately next to this is a row of pollarded poplar trees which are now re-generating. These are within a development site where 4 houses are being built following the grant of outline permission at appeal in 2017 (Ref: APP/X2220/W/16/3157696).
5. The appellant is adamant that there is no intention to remove the line of trees. Be that as it may, the proposed dwelling would fall within the root protection area identified in a tree protection plan submitted for the neighbouring Barnsole Road development site. Without any arboricultural evidence to the contrary it is therefore highly likely that the proposal would have a negative impact on the longevity of the poplars even though they are outside the appeal site. The trench dug in the past for soakaway pipework does not alter the very close juxtaposition that would occur between the foundations for the rear wall, the base of the trees and their likely rooting system.

6. When considering the outline scheme, the Inspector remarked that the site was well screened thereby limiting the impact on the wider countryside. Moreover, an appeal against the refusal of reserved matters was dismissed in 2020 (Ref: APP/X2220/W/19/3234742). One of the concerns raised by that Inspector was the proximity of the proposed southernmost house to the group of poplars. Overall he found that trees with amenity value that could reasonably be retained should be retained to assist in assimilating the development into its surroundings. These findings are equally relevant in this appeal.
7. Given their location back from the road, the trees concerned are not highly significant features in the locality and would also be obscured to some extent by the new houses. Nevertheless, they form an attractive barrier between the two sites, give continuity to a line of trees that extends further to the west and would provide some softening of the built form. Even if managed in height, the poplars could provide a strong natural perimeter to both sites. Furthermore, the efforts made to retain them as part of the development of 4 houses would be undermined if they were lost.
8. Because of the position of the proposed dwelling so close to the line of poplar trees it is likely that their long-term survival would be seriously threatened. Their demise would be harmful to the character and appearance of the area. As the countryside would be adversely affected there would be a conflict with part of Policy DM15 of the Core Strategy of 2010 which seeks to protect it.

Living conditions

9. A window is proposed in the northern elevation to serve bedroom 2. Assuming the boundary trees were no longer there, it would allow direct views down onto the garden and patio of the adjoining house (Plot 1) giving rise to a major loss of privacy. To overcome this, the appellant suggests that a condition could be imposed requiring that the lower part of the window be obscure glazed. However, this would deny future occupiers of the proposed dwelling any meaningful outlook and so internal living conditions would be unsatisfactory.
10. If the trees remained, they would mitigate the overlooking. The corollary is that they would then obstruct light from entering the room and also impede outlook. So, whilst the room needs a window, there is not an obvious way that its proposed location could be made acceptable having regard to the constraints that exist. The appellant comments that the bedroom window could be re-located to the east elevation and the internal layout adjusted to suit. However, the appeal process should not be used to evolve a scheme and this decision is therefore concerned with the original proposal.
11. Bedroom windows in the side elevations of the permitted houses within the Barnsole Road site would face each other. However, this does not justify the unneighbourly location of the proposed window which would significantly spoil the enjoyment of an external area. As a condition would not be effective, the proposal would harm the living conditions of the future occupiers of the permitted house at Plot 1.

Other Considerations

12. A public right of way runs from Barnsole Road to the south of the site of the proposed dwelling. Current views into the existing storage and parking area are fleeting and the proposal would be well screened from this direction by an

existing building. As such, any benefits to the appearance of the wider area, brought about by the replacement of commercial activities, would be limited.

13. Core Strategy Policy DM1 precludes development outside rural settlement confines unless justified by one of three criteria. Barnsole is a scattered hamlet outside of Staple. However, the Council accepts that the strict provisions of Policy DM1 are out-of-date given current housing development needs and the age of the Core Strategy in relation to the National Planning Policy Framework. Furthermore, development on the adjoining site has been accepted and the proposed dwelling is within the main cluster of buildings at Barnsole rather than on the periphery or intruding into open countryside. No objection is raised in this respect and limited weight should be given to the policy conflict.
14. One of the justifications for development in the countryside specified by Policy DM15 is where there is a need to sustain the rural economy or a rural community. The Design and Access Statement provides details of the security benefits of having an additional dwelling on site in order to oversee valuable memorabilia. However, part of the rationale arose from restrictions in force during the pandemic which no longer apply. Other security measures may be possible. It is also said that there would be education and training benefits but the detail about this is scanty. Indeed, there is no compelling evidence that an additional dwelling is necessary to support the business.
15. The dwelling is also intended to allow a valuable employee with specialist expertise to manage their home and work life balance by living close to their job. From the information given, it is possible to see how this would be beneficial. However, there is nothing about what other options might be available and there is no mechanism in place to ensure occupation by any particular individual. In any event, the importance attached to this matter and any other benefits to the business are tempered by the apparent possibility of devising an alternative scheme, taking account of the objections raised.
16. The site is within a groundwater protection zone but a pre-commencement drainage condition could ensure that there was no harm to the source.
17. The Council does not consider that a contribution towards the Thanet Coast and Sandwich Bay Special Protection Area and Ramsar Mitigation Strategy is necessary for a development of this scale. As a result of new connections to Dambridge wastewater treatment works it has been demonstrated to the satisfaction of Natural England that the proposal, in combination with other plans and projects, would not have a likely significant effect on the Stodmarsh Lakes designated site.
18. The appellant observes that if the Council's concerns had been communicated during the application stage, then changes could potentially have been made to overcome them. Whilst some frustration about this is understandable, it has no bearing on the assessment of the proposed development.

Final balance

19. The proposal would be liable to lead to the loss of a line of poplar trees that should be retained in the interests of the character and appearance of the area. As a result it would not comply with Core Strategy Policy DM15. It would also create unsatisfactory living conditions for the occupiers of the house under construction at Plot 1. The Framework aims to create places with a high

standard of amenity for existing and future users. The conflict with the locational provisions of Policy DM1 is of limited weight.

20. Policies DM1 and DM15 of the Core Strategy are therefore the most important policies for determining the appeal. Whilst the Council accepts that Policy DM1 is out-of-date, the Framework confirms that planning decisions should recognise the intrinsic character and beauty of the countryside. This is reflected by Policy DM15. Given that this is the critical development plan policy on which this decision turns, the most important policies are collectively not out-of-date and therefore paragraph 11 d) of the Framework does not apply.
21. Whilst the proposal would bring about some benefits to the operation of the business and to one employee's family, these are not of sufficient strength to set aside the objections identified.

Conclusion

22. The proposed development would not accord with the development plan and there are no material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR