



Appeal Decision

Site visit made on 6 December 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/J2210/W/21/3289840

The Oaks, Highstreet Road, Hernhill CT5 3AH

- 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 T Down against the decision of Canterbury City Council.
 - The application Ref CA/21/00902, dated 22 March 2021, was refused by notice dated 23 August 2021.
 - The development proposed is erection of dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is a garden plot located to the rear of an existing detached dwelling fronting Highstreet Road within an established rural settlement. The site is bound to the east by a dwelling and the west by a small cluster of mobile homes. The site backs onto open fields to the north.
4. The site currently comprises several domestic garden sheds and is mainly surfaced in hardstanding material with some small lawned areas. At the time of my site visit, there were three large vehicles parked on the site.
5. The prevailing pattern of development nearby is characterised by residential properties with long private rear gardens. The existing development is predominantly linear in form with dwellings fronting the road.
6. The proposal would consist of a detached single storey dwelling on land beyond the rear building line of the existing residential development. The proposed dwelling would extend almost to the entire width of the site, with its side elevations in close proximity to the adjoining residential garden boundaries. Its height would also be taller than the existing boundary fencing. This would result in a building of considerable bulk and mass with a large expanse of roofing.
7. Consequently, the siting, scale and mass of the proposed dwelling would be out of keeping with the prevailing pattern of the existing development in the vicinity of the appeal site. The proposal would create an incongruous form of

- development adjacent to a well-established rear garden environment and would not respond positively to the overriding spacious character of the area.
8. Although the topography of the site is generally flat, the proposed dwelling would be visible from the site entrance, and in views from neighbouring properties. Therefore, the proposal would be a visually intrusive form of development that would unacceptably detract from the semi-rural appearance of the surrounding area.
 9. The appellant has drawn my attention to appeal decision (APP/J2210/W/18/3204617) at 40 Dargate Road. However, unlike the proposal before me, this other appeal site was located in close proximity to an existing cul-de-sac development and to two existing backland properties. Furthermore, the Inspector found that the appeal dwelling would be placed on the site of the existing stable, thereby replacing an existing built form. Thus, this previous appeal is not directly comparable to the current appeal. Its relevance is therefore limited for the purposes of my determination of this appeal.
 10. The appellant has also drawn my attention to appeal decision (APP/J2210/W/18/3196626) at 64 Dargate Road. Nevertheless, this proposal sought permission to demolish the existing bungalow and construct two new dwellings. The Inspector found that the proposal would increase the overall level and prominence of built form on the appeal site by a marked degree which would substantially reduce the sense of space and openness of the appeal site and area. The Inspector concluded that the proposal would give rise to significant harm to the character and appearance of the area.
 11. My attention has also been drawn to examples of backland developments located elsewhere in the local area. Though there are some exceptions where development has been constructed deviating from the linear form, the overriding character in the immediate vicinity of the appeal site is predominantly of linear form fronting the road. Furthermore, I do not know the circumstances that led to the approval of these other developments or their specific relationship to their site. In any event, I have determined this appeal on its own merits based on the information before me and my own observations of the area.
 12. I have had regard to the guidance contained in the 'Guidelines to Control Residential Intensification' (2008) (SPD), which was submitted by the appellant at appendix 7 of their statement. On page 8 of this SPD is a diagram that shows an example of what is an unacceptable form of tandem development. I find that there are similarities between this example and the proposal before me, due to the orientation and siting of the proposed dwelling in relation to the existing dwelling.
 13. For the reasons given, the proposal would fail to accord with Policy DBE3 of the Canterbury District Local Plan (2017). Amongst other things, this policy seeks to ensure development protects and reinforces the local character, setting and context of an area. The proposal would also conflict with the design objectives of the Framework, which seeks to ensure developments are sympathetic to local character.

Other Matters

14. The appellant has submitted a signed Unilateral Undertaking dated 19 April 2022 to address the issue of recreation access to the Thanet Coast and Sandwich Bay and the Thames, Medway and Swale Special Protection Areas.
15. However, given my findings in respect of the effect of the character and appearance of the area, 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.
16. I note the personal circumstances advanced by the appellant with regard to their disabled family member, as set out in the appellant's statement of case. Taking these personal circumstances into account, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. I have also had regard to rights conveyed within the Human Rights Act 1998. While I sympathise with the appellant's desire to provide suitable living accommodation for their relative who requires essential care and support, I have borne in mind that the development will remain long after those circumstances have ceased to be material. Furthermore, the plans submitted for the proposal includes 3 bedrooms and 2 bathrooms with no obvious provision for specialist needs indicated. Therefore, whilst I acknowledge the personal circumstances of the appellant, as well as the needs of the family member, I conclude that these are not matters which outweigh the harm I have identified to the character and appearance of the area.
17. Although my attention has been drawn to two other appeal cases (APP/N5090/W/18/3214449, APP/W1715/W/18/3216696), I do not have the full details of these other appeal cases before me. In any event, I have determined this appeal on its own merits.
18. The proposal is intended to be a self-build dwelling in which the appellant's family member will reside. Paragraph 62 of the Framework supports self-build development and I note the Council do not have a development plan policy that relates specifically to custom and self-build. However, there is no evidence before me that the appellant is on the Council's self-build and custom house building register. Moreover, there is no mechanism before me to secure the appeal site as a self-build dwelling. I therefore attach limited weight to this matter.
19. The proposal would make a contribution to the housing supply, albeit a very limited one to which I therefore attach limited weight.
20. There would be short term economic benefits resulting from the construction stage, along with longer term economic and social benefits arising from future occupiers contributing towards the local rural community, including benefits generated from council tax and new homes bonus. The proposal would also be built using energy efficient construction. However, these would be likely to amount to small benefits relating to just a single dwelling and therefore attract limited weight.
21. The appellant claims that the proposal would be accessible to some local services and facilities and would be near to a local bus route. Nevertheless, this would not outweigh the harm identified.

22. The proposed dwelling would not be detrimental to the living conditions of any neighbouring occupants. However, a lack of harm in this regard does not weigh in favour of the proposal.

Planning Balance

23. Although there would be some benefits to the proposal, as set out above, these benefits would attract only limited weight and would not outweigh the harm identified.
24. The appellant claims that the Council does not have a 5-year housing land supply (5YHLS) and has failed the government's housing delivery test, in that it is delivering less than 75% of its housing target. Nevertheless, even if I were to conclude there is a shortfall in the 5YHLS as suggested by the appellant, the harm I have found arising from this proposal is so significant that the adverse impacts of granting permission relating to the main issue would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

25. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Helen Smith

INSPECTOR