



Appeal Decision

Site visit made on 3 August 2023

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/Z2260/W/23/3315448

Land west of Mannock Drive, Manston Road, Manston CT12 5DG

- 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 M Sturge (Premier Construction Ltd) against the decision of Thanet District Council.
 - The application Ref F/TH/22/1157, dated 21 August 2022, was refused by notice dated 21 October 2022.
 - The development proposed is Erection of two detached dwellings including associated car parking, provision of new Manston Park visitor car parking area, provision of new footpath between Gilmour Road and Mannock Drive, and enhancement to overall landscaping of area including new trees and shrub planting.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the evidence and on the decision notice the neighbouring residences are referred to as being nos. 11 and 12 Gilmour Drive. However, the main parties have clarified that the correct addresses should be nos. 11 and 12 Gilmour Road. This is reflected in my reasoning below.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of neighbouring occupiers having regard to outlook; and
 - The effect of the proposed development on the integrity of European Sites.

Reasons

Character and Appearance

4. The appeal site is a vacant piece of land situated on the edge of a residential estate next to Manston Road. On one side of it lies open agricultural land and on the other side there is a similar sized parcel of land that contains trees and raised bunding. On the opposite side of Manston Road to the appeal site there is a new build housing development comprising large, detached dwellings. The proposal would install two detached dwellings, associated car parking, a carparking area and a new footpath. Landscaping including trees and hedging would also be installed to the front of the appeal site facing Manston Road.

5. From certain vantage points the appeal site and the other strip of nearby open land on the other side of Mannock Drive together form a clear visual and spatial link to the open agricultural land beyond them which is located further along this side of Manston Road. This linked linear piece of open land is also located at the edge of the adjacent residential estate (Manston Park).
6. Furthermore, given the layout of this residential estate and its straight edge abutting the appeal site and the other strip of open land, I consider this edge to be a very clear spatial and visual demarcation line between the estate development and the undeveloped land beyond it on this side of Manston Road. Therefore, set in this context, I also consider that this open land to the edge of Manston Park forms a visual and spatial landscape buffer set against the straight line of the built form of the estate which is set back from the roadside.
7. Moreover, the proposal would be located within an open piece of land where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of this land by introducing development to it. The addition of the proposed dwellings within the landscape buffer would therefore be at odds with the established pattern of development on this part of this side of Manston Road.
8. Consequently, I consider that the development of the appeal site would represent an incongruous addition to this part of Manston Road which would therefore have a significant adverse spatial and visual impact on the landscape buffer in terms of its openness and character. In turn, given the clear link between the buffer and the more open landscape beyond it, I also consider that there would be a similar adverse impact on the open character of the wider landscape on this side of Manston Road.
9. I note that on the opposite side of Manston Road there is a residential development (Manston Manor) abutting the edge of the highway that does not have a similar landscape buffer. However, even so, this does not necessarily mean that the character on one side of the road is the same as that on the other side or that each side of the road should have the same type of development.
10. Indeed, given the fact that the Manston Manor development abuts the edge of the road on that side means that there is no longer a visual or spatial linkage between it and the more open landscape beyond it such as that which exists between the appeal site, the nearby open strip of land and the agricultural land beyond them on their side of the road. To my mind, there is therefore a clear distinction in landscape character between the Manston Manor side of this part of Manston Road and the Manston Park side.
11. I also note that the proposal would retain the previously approved tree planting of the Manston Park development, provide additional landscaping along the appeal site's frontage with Manston Road and that it would not be visible from certain vantage points further along the road in both directions as it would be screened by the existing high mature trees.
12. However, while this would partially mitigate the proposal's visual impact, it would not mitigate the proposal's clear spatial impact on the area's openness and character. Moreover, the additional landscaping would take time to mature and people walking or driving in and out of Mannock Drive would have a clear view of the proposal, nonetheless.

13. I acknowledge that the proposal would not necessarily represent a very cramped form of development. However, the location of the proposed dwellings would be at odds with the prevailing development pattern on this side of this part of Manston Road in that they would be situated past the existing development demarcation line. Furthermore, the provision of overflow car parking for the Manson Park development would likely make the proposed development appear both visually and spatially cluttered.
14. I also acknowledge that the character and pattern of development at other points along the same side of Manston Road as the appeal site differs to that of the site and the parcels of land on either side of it. However, just because one part of Manston Road has higher density commercial development on it does not mean that the proposal would be appropriate in its location or that it would not be at odds with the character of the land nearest to it. In any event this is not of sufficient weight to justify the proposal or the harm it would cause to the part of Manston Road to which it would belong.
15. I therefore conclude that the proposed development would significantly harm the character and appearance of the area. Accordingly, it would conflict with policies SP24, SP26 and QD02 of the adopted Thanet Local Plan (TLP) and paragraph 130 of the *National Planning Policy Framework* (the Framework).

Living Conditions

16. The proposed dwellings would be located close to the side and rear of nos. 11 and 12 Gilmour Road with their boundaries with the appeal site comprising closed board timber fencing approximately 2 metres in height. Given their orientation, the proposed dwellings would project a good distance to the rear of nos. 11 and 12 along their respective side boundaries. The proposed dwellings would also be significantly higher than these side boundaries.
17. Consequently, and given their scale, location, orientation, massing, and height I consider that the proposed dwellings would create an increased sense of enclosure for the occupiers of nos. 11 and 12 Gilmour Road thereby having a significant adverse impact. This impact would likely be experienced by users of habitable rooms on their respective ground floors and by users of their respective rear gardens.
18. I therefore conclude that the proposed development would materially harm the living conditions of neighbouring occupiers having regard to outlook. Accordingly, it would conflict with policy QD03 of the TLP and paragraph 130 of the Framework.

Integrity of European Sites

19. The Thanet Coast and Sandwich Bay SPA is used by large numbers of migratory birds that must be protected from disturbance by recreational activities. While the development is for two dwellings, and in isolation unlikely to have a significant effect on the SAC or SSSI, when considered in combination with other development in the locality there could be such an effect.
20. The District Council and Canterbury City Council have developed a Strategic Access Management and Monitoring Scheme (SAMMS) to address the effects of development throughout the area. The District Council has also undertaken a site-specific 'Appropriate Assessment' in respect of the proposal which

concluded that 'with mitigation, the project will have no adverse effect on the integrity of the European protected site' and from the evidence before me I see no reason to disagree with this conclusion.

21. Indeed, Natural England has advised the Council that an appropriate tariff per dwelling should be collected to fund strategic measures across the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site).
22. However, in this specific case, although the appellant is aware of the need, and willing to make the necessary contribution, the submitted planning obligation is not signed or dated and is therefore incomplete. As a result, I cannot be certain that any mitigation measures would be forthcoming or implemented in an effective and timely manner.
23. Consequently, I conclude that the proposal would give rise to an adverse effect on the integrity of the site. Accordingly, the proposal conflicts with Paragraph 180 of the Framework which says, amongst other things, that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other considerations

24. The proposed development would provide an additional two houses and a social benefit. There would also be some economic investment from both their construction and subsequent occupation. These benefits are tempered by the small scale of the proposed development, but nevertheless, carry modest weight in favour of the appeal scheme.

Other Matters

25. The appellant has also referred to other houses which front onto Whistler Walk. However, while some of the houses that front onto Whistler Walk have a similar orientation to those proposed in that they face Manston Road, they do not project past the clear demarcation line between the existing estate and the open space in front of it like the proposal would. In any event, the existence of other similar development proposals in the locality does not outweigh my findings in respect of the character and appearance of the area, living conditions or the integrity of European Sites.
26. In support of the proposal the appellant has highlighted the fact that improvements have been made to the proposal when compared to the previously refused scheme (appeal ref. APP/Z2260/W/20/3262090). However, for the reasons set out above I have found that the proposal would cause harm to the character and appearance of the area, the living conditions of neighbouring occupiers and the integrity of European Sites, nonetheless. In any event, I have determined the appeal scheme before me on its own merits.
27. I am also aware that there is potentially an ongoing land ownership dispute between the appellant and neighbouring occupiers. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990.
28. None of the other matters raised alter or outweigh my conclusion on the main issues above.

Planning Balance

29. Both parties agree that the Council cannot demonstrate a 5-year supply of deliverable housing land for the area. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing two additional dwellings to assist the Council in addressing its undersupply as set out in Paragraph 11 of the Framework.
30. In relation to the adverse impacts of the proposal, these are the significant harm to the character and appearance of the area, material harm to the living conditions of neighbouring occupiers and harm to the integrity of European Sites in conflict with policies SP24, SP26, QD02 and QD03 of the TLP and paragraphs 130 and 180 of the Framework.
31. With regards to the potential benefits of the proposal, it would provide social and economic benefits carrying some weight in favour of the appeal scheme. However, given the conflict with the development plan and those policies of the Framework identified above I find that, the proposal therefore cannot be considered sustainable development in accordance with paragraph 11 of the Framework.
32. Consequently, within the context of paragraph 11 of the Framework, given the substantial harm I have identified, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, including its presumption in favour of sustainable development.

Conclusion

33. The proposal would not accord with the development plan and the Framework when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within them. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR