



Appeal Decision

Site visit made on 13 November 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/J2210/W/23/3323545

The Chalet, Pilgrims Lane, Whitstable, Kent CT5 3AP

- 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 J Strudwick against the decision of Canterbury City Council.
 - The application Ref CA/22/02460, dated 21 November 2022, was refused by notice dated 10 March 2023.
 - The development proposed is a single storey detached dwelling with dormers to front, following the removal of mobile home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the development from the appeal form and decision notice as this accurately describes the proposal.
3. The planning history, as highlighted by the Council in its statement, explains that the appeal site benefits from a personal planning permission for the use of the land for the stationing of mobile homes for residential use (planning permission CA/91/01141). The evidence indicates that occupation of this site is restricted to the appellant and his dependents such that once they cease to have an interest in the land the mobile home must be removed, and the land returned to its original state. In that sense, the overall site does not, therefore, contain permanent residential development, and is, in that way, time limited.
4. The appeal proposal seeks the erection of a detached dwelling which would replace one of the three mobile homes on the site. In these circumstances, if the permission was to be granted, this existing mobile home the subject of an occupancy restriction and the related requirement to reinstate the land at some point, would be replaced by a permanent building with occupation unrestricted. I will consider the proposal on that basis.

Main Issues

5. The main issues are:
 - whether or not the development plan would support the proposal in this location, including having regard to the ability of future occupants of the dwelling to access services and facilities by a range of transport modes,
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposal on the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and the Thames, Medway and Swale SPA.

Reasons

Location

6. Policy SP4 of the Canterbury District Local Plan (adopted 2017) (the Local Plan) establishes the strategic approach to the location of development across the plan area. The urban areas of Canterbury, Herne Bay and Whitstable are to be the principal focus for new development. The settlement hierarchy then identifies rural service centres, villages and hamlets. Beyond these locations, the land is countryside.
7. Whitstable is identified as one of the three principal settlements where development should be focused. However, the appeal site lies outside the defined settlement boundary in a location that should be considered countryside for planning purposes.
8. Policy HD4 of the Local Plan sets out the circumstances when new dwellings in the countryside may be permitted. The scheme is not advanced as a Rural Workers Dwelling, would not re-use a heritage asset or be enabling development to secure the future use of heritage assets, nor concern the re-use of an existing building. While I have found, in my analysis below, the dwelling acceptable in terms of its effect on the character and appearance of the area, it would not meet with the exacting requirement under criterion HD4(d) which allows for a new dwelling in the countryside where the design of the development is of an exceptional quality or innovative nature. Consequently, the scheme would not meet with the allowances within Policy HD4 of the Local Plan for the construction of a dwelling within the countryside.
9. The case is made that the proposal is a replacement of one residential unit with another. However, I do not accept that proposition, even as there has been residential use on the site since 1978, because, as I have detailed above, the present mobile home is subject of an occupancy restriction. The proposal is for a permanent dwelling and, therefore, should be considered, ultimately, as an additional unit of accommodation in the countryside.
10. In terms of the location of the proposed dwelling, in plan form, it would not be that far from the main areas of Whitstable with its services and facilities. However, the nature of its location and the relationship to the A299 (Thanet Way) mean that access would not be necessarily straightforward.
11. The appeal site can be accessed by vehicle, when travelling broadly south west, off the Thanet Way. This leads to the site via Pilgrims Lane. When leaving the site by vehicle onto the Thanet Way, there is only the ability to turn left onto the dual carriageway because of the central reservation on this part of the road. This would then take drivers away from Whitstable. Nevertheless, it would be possible to leave at a slipway further along this road and travel to Seasalter or return on the other side of the dual carriageway towards Whitstable.
12. It would also be possible to drive through the more rural roads to access the roundabout to the generally east, via Wraik Hill, and then onto Whitstable or alternatively via other routes to Seasalter. However, these would also be somewhat convoluted routes to access the built-up areas.
13. For other modes of transport, cycling to access services and facilities, via the Thanet Way, would be a very unattractive proposition given the road conditions

and general speed of travel. Cycling via the rural roads may be reasonable for recreational journeys. However, cycling is unlikely to be a realistic option for most residents of the proposed dwelling to enable them to access services and facilities, such as schools, shops and employment, on a regular basis unless they were a committed cyclist.

14. There are fairly limited options that would allow occupants of the proposed dwelling to walk to and from the site to access services and facilities. One option would be to walk along the fairly narrow footway alongside the Thanet Way and then cut through to Wraik Hill. Alternatively, walkers would be required to use the reasonably narrow roads which are, at times, curving, generally without footways and street lighting, and with, in places, limited refuges to step back from approaching traffic. Once at the roundabout off Wraik Hill, via either route, it would then be necessary to cross the various roads in this area before approaching Whitstable. As a consequence, walking to and from the site would not be an easy or attractive option and would be unlikely to be a mode of transport that would be used other than on a rare occasion for most occupants of the proposed dwelling.
15. Finally, the evidence does not indicate that occupants would have a reasonable or convenient ability to access public transport from the site.
16. Drawing these matters together, with the location of the site on the broadly southern side of the Thanet Way and with the poor connections for walking, cycling and public transport, it would mean that occupants of the proposed dwelling would be almost wholly dependent on the private vehicle to access services and facilities.
17. The provision of a permanent dwelling in this location would, therefore, be contrary to the policy approach of the National Planning Policy Framework (the Framework). This explains that the planning system should actively manage patterns of growth in support of promoting sustainable transport and that development proposals should include identifying and supporting the promotion of opportunities for walking, cycling and public transport. While I have taken into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, in this case, for the reasons I have explained, occupants of the new dwelling would be almost wholly dependent on the private vehicle, and this reason reinforces the objections to the provision of a permanent dwelling on this site in terms of the spatial strategy of the development plan.
18. Attention has been drawn to other permissions in the area which are argued support the scheme in this location. The evidence indicates that an allocated site off Church Lane, located to the general north west, gained outline approval in February 2023 for 220 dwellings (CA/22/01527). The Council has explained that with the number of associated improvements that were proposed with this scheme, and together with the number of dwellings being proposed, the public benefits derived from this proposal were considered to outweigh its conflict with Policy SP4 of the Local Plan. Moreover, when considering this development's location to the general north of the Thanet Way, this outline site would have better options for connectivity to services and facilities by a range of transport modes compared with occupants of the appeal dwelling. There are, therefore, material differences between that scheme and the present appeal

proposal. I therefore attribute this outline permission limited weight in justification for the appeal scheme.

19. Another planning permission (CA/16/01443) was granted for three dwellings approximately 100m to the generally south west of the appeal site. The Council has explained that the Committee decided that the three dwellings would substantially reduce noise pollution for neighbouring occupiers given that the existing kennels would be removed. This was a material consideration that weighed in favour of that scheme, and which is not present with this appeal proposal. Therefore, I afford this other permission limited weight in support of the appeal proposal.
20. I appreciate that there is an occupied mobile home on the site and those present occupants already need to access services and facilities locally, presumably with a dependence on the private vehicle. This situation could continue for some time. However, as explained above, the mobile home is subject to a personal occupancy restriction and, consequently, the presence of the mobile home in these circumstances does not provide a sufficient justification for the proposed permanent unit of accommodation. If permission was to be granted for a dwelling it would permit on a permanent basis a residential use on the site in a location that was poorly served by sustainable transport options. This would not make good planning in the interests of minimising carbon emissions in the longer term and with seeking to distribute development to accord with the strategic approach of the development plan.
21. That there are other dwellings nearby is also not a good reason to permit a further permanent dwelling in this general area contrary to the spatial strategy and with the identified accessibility concerns.
22. In the light of the above analysis, I conclude that the development plan would not support the proposed dwelling in this location as it would not accord with the spatial strategy and because future occupants would not have satisfactory access to services and facilities by a range of transport modes. Accordingly, there would be conflict with Policies SP1, SP4 and HD4 of the Local Plan and the Framework which set, amongst other things, the approach to the location of development across the plan area.

Character and appearance

23. The wider site consists of three mobile homes and includes other ancillary and related buildings and storage. The site is fairly well self-contained with effective fence and walling boundary treatments and is accessed off a northern spur from Pilgrims Lane. The site is somewhat separated from the cluster of dwellings and other buildings located to the very broadly south west.
24. When viewed from sections of the road amongst the cluster of buildings to the broadly south west, the upper parts of two of the mobile homes, one of which is proposed to be replaced by the dwelling, can be seen above the boundary fence. The site, therefore, already exerts a visual influence on the area.
25. In terms of the proposal, the dwelling is suitably designed, with the majority of the floorspace at ground floor level and with living accommodation within the roof space, lit by dormers. The design would be similar to some of the dwellings permitted at the kennels site to the broadly south west. While much of the building would be visible above the fence line, it would not be at odds

with the general form, bulk or appearance of buildings in the general locality. The profile of the building and its related bulk would be seen against the backdrop of woodland, when within the road area near the dwellings to the general south west, and this backdrop would be helpful in reducing the visual effect of the building.

26. There would be sufficient space around the proposed dwelling such that it would not look cramped on the site or be overly prominent in any public views. Overall, while the development would not be of exceptional quality or of an innovative nature, having regard to the character of the site and the general surroundings, the design, bulk and impact of the dwelling would not look out of place on this site.
27. Accordingly, I conclude that the proposed dwelling would not be harmful to the character and appearance of the area and would meet with the requirements of Policy DBE3 of the Local Plan and the Framework which seek, amongst other things, to promote, protect and enhance the distinctive character, diversity and quality of the Canterbury District.

Habitats sites

28. The information indicates that the site falls within the zone of recreational influence of the Thanet Coast and Sandwich Bay SPA and the Thames, Medway and Swale SPA. Policy SP6 of the Local Plan explains that no development will be permitted which may have an adverse effect on the integrity of these coastal habitat sites. The policy requires that development which would lead to an increase in recreational disturbance is required to fund, in-perpetuity, access management and monitoring measures to mitigate these impacts. The policy includes a list of measures that are needed to address the impacts.
29. It is understood that the required mitigation is to be secured via a planning agreement with a commitment to pay the appropriate sum related to the development. In this case, the appellant has confirmed a willingness to enter into such an agreement, if it is considered appropriate. The appellant describes the development as a replacement dwelling and comments on the normal approach is that the Council make a request for the agreement, sending out a draft, when processing the application. However, the Council has explained that it did not seek an agreement at the application stage because the proposal was being refused for other reasons.
30. I consider that the evidence indicates that mitigation is required because the mobile home would likely be removed at some point in the future, and the scheme would deliver a permanent dwelling. Mitigation of the recreational impacts from occupants needs to be secured in perpetuity. Furthermore, the plans show that the present mobile home has two bedrooms, and the new dwelling would have three/four bedrooms. The increase in the number of bedrooms could likely increase the number of occupants and, in turn, increase the recreational pressure on the habitats sites. This should be mitigated if there is not to be adverse harm to these European designated ecological sites.
31. At the appeal stage, I do not have a completed planning agreement that addresses this matter and, therefore, the required mitigation has not been secured. It would not be appropriate to defer resolution of this matter by way of a planning condition as this would not provide the necessary certainty when making this decision. It follows that I am unable to conclude that the proposal,

either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the Thanet Coast and Sandwich Bay SPA and/or the Thames, Medway and Swale SPA. Consequently, when undertaking an appropriate assessment, I conclude that the proposal would not meet with the legislative requirements of the Conservation of Habitats and Species Regulations 2017. The scheme would, therefore, also be in conflict with Policies SP1, SP6 and LB5 of the Local Plan and the Framework which seek, in this respect, to ensure development does not adversely affect the integrity of international designations, and the necessary mitigation measures are provided.

Planning Balance and Conclusion

32. The scheme would not harm the character and appearance of the area. Nevertheless, the proposed dwelling would not be located in a position that would accord with the development plan approach to the location of residential development, and future occupants would be without the reasonable ability to access services and facilities other than by the private vehicle. Furthermore, the development would likely have an unacceptable impact on European designated habitat sites. This combined harm and policy conflicts would be such that the scheme would conflict with the development plan when considered as a whole.
33. The Council accept that it has been unable to meet the Housing Delivery Test at a level such that the delivery of housing was substantially below the housing requirement over the previous three years. In these circumstances, and as a starting point, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. However, paragraph 11d)i disengages the presumption where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This is the situation with this proposal, as the harm to the habitats sites provides a clear reason for refusal. The proposed development should, therefore, be determined in accordance with a normal planning balance.
34. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹.
35. In terms of the benefits of the scheme, the proposal would deliver a purpose built dwelling which should provide a high standard of living conditions on a permanent basis. As it would be a permanent dwelling unit, as opposed to accommodation subject to a personal permission, it would provide a small boost to housing numbers in the longer term. There would be economic benefits to the area during construction and subsequently with occupation. This is because, with the larger floorspace and increased number of bedrooms compared to the mobile home, the dwelling could potentially accommodate more people, and thereby could increase the related local, economic spend. The dwelling could be subject of a condition to ensure that it provided renewable energy provision and minimised the carbon footprint in its build and occupation. However, all these benefits would be related to the provision of a

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

single permanent dwelling and, therefore, cumulatively I attribute them limited weight in favour of approval.

36. The effect of the proposal on the character and appearance of the area should be considered neutral, rather than beneficial, and therefore this does not add weight in favour of approval. I have taken into account the representations in support of the proposal.
37. On the other hand, the harms and policy conflicts that I have identified should, collectively, weigh to a substantial extent against the proposal. I have found that the benefits of the proposal should merit limited weight in favour of the scheme. It follows that the harms and policy conflicts would not be outweighed by the benefits of the development.
38. For the reasons given above, the proposed development would not accord with the development plan when considered as a whole. The evidence does not indicate a decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR