



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: 15th December 2023

Appeal Ref: APP/J2210/W/23/3318832

Bridge Down, Bridge Road¹, Bridge, Canterbury CT4 5AL

- 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 Sandra Clay against the decision of Canterbury City Council.
- The application Ref CA/22/02705, dated 23 December 2022, was refused by notice dated 7 February 2023.
- The development proposed is a new dwelling within the amenity space of Bridge Down.

Decision

1. The appeal is dismissed.

Main Issues

2. 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 to access services and facilities by a range of transport modes,
 - the effect of the development on the character and appearance of the area, including whether or not the scheme would conserve or enhance the character or appearance of the Renville Farm and Bridge Railway Station (Bridge) Conservation Area (the Conservation Area), and
 - the effect of the proposal on the Stodmarsh Nature Reserve Special Area of Conservation (SAC), Special Protection Area (SPA)² and Ramsar site.

Reasons

Location

3. 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 identified locations the land is designated as countryside.
4. Bridge is identified as a rural service centre. However, the appeal site lies a reasonable distance beyond the built form of this settlement in a location that should be considered countryside for planning purposes.

¹ Some of the submissions indicate that Bridge Down is located within Station Road (such as the appeal form). I have used Bridge Road in the banner heading as this is the address used in the application form.

² The reason for refusal only refers to the Stodmarsh Nature Reserve being a SAC, but other evidence indicates that it is also a SPA.

5. 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 of heritage assets, nor concern the re-use of an existing building. The proposal is argued to meet with the 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. However, for the detailed reasons I examine and conclude under the next main issue, the scheme would not meet this high bar. Consequently, the proposed dwelling in this location would not meet with any of the allowances for the construction of new dwellings in the countryside under Policy HD4 of the Local Plan. The principle of the construction of a dwelling on this site would, therefore, be contrary to the development plan approach to the location of residential development across the plan area.
6. In terms of the site specific accessibility issues, the dwelling would be constructed in the rear garden of Bridge Down, a dwelling with permission to be extended. While there is a scattering of buildings in the general locality, the site is a rural area some way from the boundary with the settlement of Bridge. The connecting roads to the edge of the built-up parts of Bridge generally have no footways or street lighting. The nature of the road, with in places vegetation both sides limiting the ability to step back from approaching traffic, the curving form of the road in some sections and the distance, means that it would not be an attractive proposition for most occupants of the proposed dwelling to walk to and from Bridge to access services and facilities.
7. There could be a greater potential to cycle than walk to and from Bridge or Canterbury, and I note that the occupants of the existing property indicate that they regularly cycle to and from the site. I accept that the location may be a reasonable base for recreational cycling and that secure bicycle parking is proposed as part of the design. However, I am not satisfied that the location of the proposed new dwelling and the related distance and road conditions would provide such a realistic option for many occupants to cycle to services and facilities, such as schools, shops or employment, on many occasions. Consequently, while I have taken into account all the appellant's submissions on this issue, including at the final comments stage, I am not persuaded that cycling would provide a meaningful alternative mode of transport to the private vehicle in this location.
8. The evidence indicates that the nearest bus service would be accessed from areas towards Bridge and, therefore, this would not provide a generally convenient transport option for occupants of the site. It would be necessary, in all likelihood, to drive to access this bus service and, therefore, when accessing work, retail or schools, for instance, it would seem to be more convenient on most occasions to continue to drive or be driven to the destination.
9. In all these circumstances, occupants of the proposed dwelling would be largely dependent on the private vehicle to access services and facilities. Trips to Bridge and Canterbury, for instance, may be reasonably short, nevertheless, there would not, generally, be sustainable transport modes available for occupants of the new dwelling.
10. Locating a new dwelling on this site would, therefore, be contrary to the policy approach in the National Planning Policy Framework (the Framework) which

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 pursuing the promotion of opportunities for walking, cycling and public transport. I have taken into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, in this case for the reasons I have explained, occupants of the new dwelling would likely be largely dependent on the private vehicle, and this reinforces the objection to the provision of an additional dwelling on this site based on the conflict with the spatial strategy in the development plan.

11. Drawing these matters together, 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

12. Bridge Down is a dwelling that has planning permission to be extended, including with the addition of much more substantial first floor accommodation. Behind the dwelling the garden is reasonably open and gently slopes up away from the building. There is woodland to the generally east and north and agricultural land, behind the hedge line, to the broadly west.
13. Bridge Down, including its rear garden, lies within the Conservation Area. This part of the Conservation Area has heritage significance, including because of its proximity with the disused railway line and the nearby station house.
14. The main part of the appeal site lies to the rear of Bridge Down and is an open space that is not publicly visible. Nevertheless, it is an undeveloped space that assists, to some extent, to the surroundings of the original railway line layout and its rural character and, therefore, in a modest way provides a positive contribution to the significance of the designated heritage asset.
15. I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance³ of any land or buildings in a Conservation Area³.
16. The proposal is to construct a fairly sizeable, two storey dwelling within the rear garden of Bridge Down. The position, with a dwelling set behind another in a backland type form, would not be consistent with the general layout of the scattering of dwellings in the immediate area or within this part of the Conservation Area.
17. In terms of the details of the design, the use of render and stone for the external elevations would incorporate materials that are familiar to the local area. However, the angular form of the building, with essentially a flat roof, the large openings which would dominate the front elevation, the railings that would form part of the roof and would be a jarring addition, together with the depth and resulting bulk of the building, would combine to form an overly dominant and discordant structure within this rear garden land. I am not

³ Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990.

satisfied that the design would reflect the distinctive features or proportions that characterise the best of local buildings and architecture in the area, even in a contemporary way.

18. On this site, the combination of the height and bulk of the proposed dwelling, and its reasonably close positioning to some of the boundaries, would result in the building having a substantial and imposing presence. It would be such that the provision of the dwelling in this rural location would be experienced as a cramped and urbanising form of development that would cause harm to the immediate surroundings. The building may not be especially visible beyond the site, even if the extension to Bridge Down was not to be constructed. However, it would be open to view by the occupants of Bridge Down, and in any case, the lack of public views should not justify the approval of development that would be unsympathetic in character to an area.
19. The scheme would, therefore, not accord with the Framework requirements that development should be visually attractive as a result of good architecture and be sympathetic to local character. It follows that the scheme would not meet with the allowance in Policy HD4 of the Local Plan that can allow a new dwelling in the countryside when the design of the development would be of an exceptional quality or innovative nature. Additionally, for the avoidance of doubt, the scheme would not meet with the requirements of paragraph 80e or 134 of the Framework which concerns development of exceptional or outstanding quality.
20. In terms of the Conservation Area, the proposed dwelling would not be conspicuous in the landscape or have a substantial impact on the wider area. However, it seems to me that the significance of a designated heritage asset does not rely solely on elements that can be seen from the public realm. A gradual erosion of elements that make a positive contribution to the character and appearance of an area can have an adverse effect on its significance as a heritage asset. In this case, the proposal would substantially undermine this modest area of open space, and with the harmful form of the building, it would erode the contribution this undeveloped space makes to the Conservation Area.
21. The effect of the proposal would be to cause a modest and localised level of harm to the character and appearance of the Conservation Area. As a consequence, the development would detract from the significance of this designated heritage asset. The harm to the Conservation Area as a whole would be less than substantial within the meaning of paragraph 202 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
22. The benefits of the scheme would include a small boost to the supply of housing in an area where the Council has not met its Housing Delivery Test in recent years. This dwelling would be delivered on a windfall housing site, and would make use of previously developed land, being on garden land outside a built up area.
23. The dwelling is promoted as a self-build/custom build dwelling, and this is a particular area of the housing market which is promoted by the Framework and legislation. This would be a benefit in addition to the provision of the dwelling, although there is not a mechanism as part of this appeal, such as a planning agreement, to secure this aspect of the proposal. There would be social and

economic benefits to the local area during construction and in subsequent occupation.

24. The scheme is, in particular, promoted on the basis of its sustainable build and future occupation credentials. It is explained that the dwelling would be constructed to meet the exacting comfort and energy requirements of a Passivhaus building, including with high levels of insulation and air-tightness, the minimisation of thermal bridges and careful consideration of the levels of glazing and shading. While this standard of build is not innovative in itself, the provision of a dwelling with a carbon neutral approach would be a positive feature of the development and weighs in its favour.
25. All these matters would be worthwhile benefits of the development, although cumulatively, as only a single unit of accommodation would be provided, the public benefits would be minor and should be afforded limited weight in favour of approval.
26. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. I have found that the public benefits of the proposal afford limited weight and, therefore, would not outweigh the harm to the Conservation Area and its significance, which although modest and localised, in accordance with the Framework, is required to be attributed great weight.
27. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area and not preserve or enhance the character or appearance of the Conservation Area. The development would, therefore, conflict with Policy DBE3 of the Local Plan and the Framework which, notably, sets the planning approach to the consideration of development and designated heritage assets, and the promotion of designs which reinforces and positively contributes to its local context.

Habitats site

28. The information indicates that the Stodmarsh Nature Reserve SPA, SAC and Ramsar site is protected under European Law and is managed by Natural England. This wetland site contains significant plant, bird and invertebrate interest of International and European importance. The Council has explained that Natural England has identified that the water quality in the lakes at Stodmarsh has deteriorated and this is linked to the discharge of wastewater from new homes in the Stour Valley River catchment area.
29. In terms of this proposal, I have had regard to all the related submissions from the appellant, including the drainage plan and details which accompany the application and appeal, and the further comments at the final comments stage. As there is no mains sewer in the area, it is proposed to install a new package treatment plant to serve the new dwelling. A named system or similar has been identified. However, the appeal is not accompanied by such detailed drainage plans and treatment plant specifications to demonstrate, with sufficient scientific certainty, that the quality of the treated outflow and/or where the outflow would drain would be acceptable and not, ultimately, lead to increased nutrients into the river Stour catchment and then, in turn, the Stodmarsh Nature Reserve.

30. Consequently, for the above reasons, there is not sufficient certainty that the proposal, at this site, would be able to reach nutrient neutrality. It appears that there is no strategic mitigation in place to seek to address this matter by way of a mitigation payment or other scheme elsewhere that would reduce nutrients entering the catchment from another site that would off-set this proposal. As the competent authority under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), when undertaking an appropriate assessment, I must be able to rule out all reasonable scientific doubt that the proposal would have an adverse effect on the integrity of a protected site. This doubt must be ruled out when the decision is made and, therefore, it would not be appropriate to seek to defer resolution of this issue by way of a planning condition or subsequent planning agreement.
31. 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 Stodmarsh Nature Reserve SAC, SPA and Ramsar site. I am not aware of any overriding public interest which would justify permitting the proposal or that there are any alternative solutions which would have no or a lesser effect on the integrity of the protected site. Consequently, I conclude that, when undertaking an appropriate assessment, the proposal would not meet with the legislative requirements of the Habitats Regulations.
32. The scheme would, therefore, also conflict with Policies LB5 and LB6 of the Local Plan and the Framework which, notably in this respect, sets the approach to dealing with development that may affect sites of international conservation importance.
33. The reason for refusal also refers to Policy SP6 of the Local Plan. This policy is specific to named coastal habitat sites of European importance but not the Stodmarsh Nature Reserve. Consequently, this policy is not directly applicable to the issues to be considered under this main issue.

Planning Balance and Conclusion

34. The appeal dwelling would be constructed in a location that would not accord with the plan approach to the location of residential development, and without the sufficient ability for future occupants to access services and facilities other than by the private vehicle. Additionally, the proposal would harm the character and appearance of the area, including not preserving the character or appearance of the Conservation Area, and would likely have an unacceptable impact on a European designated habitats site. These harms and policy conflicts are such that the scheme would conflict with the development plan when considered as a whole.
35. The Council accept that it has been unable to meet the Housing Delivery Test and at a level such that the delivery of housing was substantially below the housing requirement over the previous three years. In these circumstances, 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 there would be unacceptable harm to the Conservation Area and to the habitats site. Either matter, on its own, would provide a clear reason for refusal and disengages the presumption in favour of sustainable development as set out in

paragraph 11 of the Framework. The proposed development should, therefore, be determined in accordance with a normal planning balance.

36. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁴.
37. The harms and policy conflicts that I have identified should, cumulatively, weigh to a very substantial extent against the proposal. I have concluded above that the benefits of the proposal, with the provision of a single dwelling, even if it was to be constructed and occupied in a very environmentally sustainable way and as a self/custom build property, should afford limited weight in favour of approval. It follows that the totality of harm and the 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

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.