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# Appeal Decision

Site visit made on 5 December 2023

**by Stewart Glassar BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> December 2023**

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**Appeal Ref: APP/J2210/W/23/3315895**

**15 Station Road, Adisham, Kent CT3 3JF**

- 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 Jordan Miller against the decision of Canterbury City Council.
  - The application Ref CA/22/02019, dated 20 September 2022, was refused by notice dated 8 November 2022.
  - The development proposed is a detached 3 bedroom bungalow to the rear of 15 Station Road, Adisham.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are a) access to the site; b) the integrity of the nature conservation sites situated at Stodmarsh, with particular regard to nutrient neutrality; and c) the effect of the proposed development on the character of the area, with particular regard to the site's setting and context.

## Reasons

### Access

3. The proposal would use an existing vehicular access from Station Road that currently serves a garage court and the rear gardens of several properties. I saw on my site visit that there were a number of vehicles parked in and around the garage court. My observations of this and the access were only a snapshot on a weekday morning. However, they accord with the representations from local residents which suggest that the garage court and the access to and from Station Road are well established and in regular use.
4. Whilst I acknowledge the concerns raised regarding any additional vehicles using the access, there is no substantive evidence before me to indicate that the proposed uplift in use would represent an unacceptable risk to pedestrians or other road users. In this regard I note that the Highway Authority (HA) does not object to the use of the access per se for the proposal.
5. However, the dwelling would be a considerable distance from Station Road and this has attracted representations from Kent Fire and Rescue Service (KFRS). Their concerns are principally that even if a sprinkler system were installed in the dwelling, it would be in excess of the 90m hose lay distance from a suitably parked fire appliance, which is what would be allowed in such circumstances. If a fire appliance were able to get closer to the dwelling it would be unable to turn around and would need to reverse back onto Station Road. This would be

contrary to normal operational requirements and so might prevent an appliance from attempting to get closer to the site.

6. The Appellant points out that fire safety is a building control issue. Furthermore, it is suggested that subject to a possible alteration to the proposed landscaping, there should (my emphasis) be room to accommodate a turning facility for a fire appliance. The Appellant proposes that any subsequent amendments to the landscaping could be resolved through the use of a suitably worded planning condition.
7. Whilst the planning system should not try to repeat the work of other regimes, it is also important that where there is overlap, control regimes should work together. Given the nature of the response from KFRS, and the HA, to this matter at the planning application and appeal stages, it is appropriate that these concerns are given consideration by me. Indeed, it would not be appropriate for the planning process to completely ignore the matter and potentially present a flawed outcome for the building control process to then seek to redress.
8. Despite the Appellant's assurances that there should be room to turn a fire appliance on site, there is an absence of any evidence to indicate that this could be achieved or any other indication that might suggest that the matter could be appropriately addressed at the building control stage. The lack of certainty around the situation does not lead me to conclude that the proposal as presented would be acceptable or that the matter could be adequately addressed through the imposition of conditions.
9. Even if I were to agree with the Appellant that wheelie bins could be brought to a position that negates the need for a swept path analysis for refuse vehicles, it would not overcome the concerns outlined above. As such, I cannot be sure that the nature of the access would result in a safe place for future residents to live which, amongst other things, is an objective of Policy DBE3 of the Canterbury District Local Plan 2017 (CDLP).

#### *Stodmarsh Nature Reserve*

10. The Stodmarsh Nature Reserve is designated as a Special Area of Conservation (SAC) and a Ramsar site. However, 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, which the appeal site is within.
11. The need to protect and safeguard the Stodmarsh sites means development proposals are considered in the light of the Conservation of Habitats and Species Regulations 2017 (the Regulations), with the aim of maintaining or restoring the natural habitats and species. Therefore, until it is proven by objective evidence that there would not be significant effects from the development, either on its own or in combination with other plans and projects, it must be assumed that any effects would be significant and thus would adversely affect the integrity of the protected habitat.
12. The Appellant has indicated a willingness to contribute to a strategic mitigation strategy and thereby ensure there would be no adverse effects arising from the development. However, the Council has confirmed that no means of strategic mitigation currently exist. Even if a strategic solution were available, and

despite the Appellant's willingness to make the necessary contribution, there is no planning obligation or other mechanism submitted with the appeal that would secure such an outcome.

13. As the 'competent authority' under the Regulations, it would fall to me to undertake an Appropriate Assessment (AA). As I am dismissing the appeal for another reason this is not necessary. However, even if I were to undertake an AA, given the lack of mitigation I would be unable to find that the proposal would achieve water neutrality. In such circumstance I would be unable to conclude that the proposal would not have a likely significant effect on the integrity of the protected sites. As such the Regulations would prevent me from giving permission for this project.
14. On this basis the proposal would not accord with Policies LB5 and LB6 of the CDLP, which state that sites of international nature conservation importance and national nature reserves must receive the highest levels of protection and that no development will be permitted which may have an adverse effect on their integrity.
15. It would also be contrary to Paragraph 180 of the Framework which clearly indicates that planning permission should be refused for development that would result in significant harm to biodiversity and/or result in the loss or deterioration of irreplaceable habitats.

#### *Character*

16. The appeal site lies within Adisham, a village which Policy SP4 of the CDLP identifies as suitable for infill development. Both Policy SP4 and Policy DBE3 of the CDLP seek to ensure developments have regard to the character, setting and context of the area and that any building is appropriately designed. The Appellant concedes in their Statement that there may be some conflict with Policy DBE3 but notes that the building's position and visibility are factors that weigh in favour of the scheme.
17. Whilst the most prevalent type of buildings around the appeal site are two storey semi-detached or terraced dwellings, they are set some distance from the site. It seemed to me that, in addition to the garage blocks, the closest buildings to the site were some sizeable single storey outbuildings in the rear gardens of neighbouring dwellings. Thus, whilst the character of the area is residential and spacious there is some variation and variety in the positioning and types of buildings in and around the site.
18. The proposal would result in a reduced garden length for the host property and an irregular shaped curtilage for the new dwelling. However, the existing house already has an irregular shaped curtilage, as does No.16 Station Road. The garden that would be retained for the host property would be shorter than neighbouring gardens but there is a variety of garden sizes in the vicinity. Furthermore, I note that the Council does not consider any harm would be caused to the living conditions of existing residents whose properties adjoin or are near the site.
19. Given the position and relationships between buildings around the site, together with the different types of buildings within the immediate vicinity, I do not find the setting and context to be so homogeneous that the insertion of the

proposed dwelling would appear unduly out of keeping. As such, it would not cause harm to the character of the area.

20. I find in respect of this main issue that the proposal would overall comply with policies DBE3 and SP4 of the CDLP which, amongst other things, allow for development in Adisham provided it protects the character of an area.

### **Other Matters**

21. It is suggested that a bungalow would allow for either disabled or elderly persons to be located within the village. Even if it were demonstrated that there is an absence of such accommodation within Adisham, this does not address or overcome the harms I have identified. I do not find that this matter attracts more than very limited weight in the overall balance.

### **Planning Balance and Conclusion**

22. The Appellant points out that the Council has delivered only 65% of its housing target. The Council has not disputed this figure.
23. However, whilst there may be a shortfall in housing delivery, as the proposal relates to development which could result in the loss or deterioration of irreplaceable habitats (such as SACs and Ramsar sites), the application of policies in the Framework that protect such areas or assets of particular importance, as set out in footnote 7 of paragraph 11(d)(i), provide a clear reason for refusing the development proposed. As such, the Framework's presumption in favour of sustainable development would not apply.
24. In addition to the above, I have also found the access to the site unacceptable, as I cannot be certain that it would result in a safe place for future residents to live. Whilst I have not found the proposal to cause harm to the character of the area, this would be expected for any development to be considered acceptable and so is a neutral factor in the overall balance.
25. Whilst there would be some benefits associated with a new dwelling, they would not outweigh the harms that I have found, and which lead me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise.
26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Stewart Glassar*

INSPECTOR