



Appeal Decision

Site visit made on 16 January 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/E2205/W/23/3321782

Land north of 128 Rylands Road, Kennington, Ashford, Kent TN24 9LU

- 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 Ms Kate Heal and Mr Charles Style against the decision of Ashford Borough Council.
 - The application Ref 22/00991/AS, dated 20 June 2022, was refused by notice dated 22 November 2022.
 - The development proposed is a 2 storey dwelling with private garden and off street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). Any references to the Framework hereafter in this decision are to the latest version.
3. The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

4. The main issues are the effects of the proposal on a) the character and appearance of the area and b) whether the development can achieve nutrient neutrality and avoid adverse effects on protected European Sites.

Reasons

Character and appearance

5. The appeal site forms a small but prominent grassed parcel of land at the junction of Rylands Road and Bybrook Road in Ashford. The surrounding area is suburban in nature with traditionally designed semi-detached and terrace residential properties, although there are flatted developments also located in close proximity to the appeal site. The rear of the appeal site is occupied by an

- electricity substation. The proposal seeks to provide a two-storey 3-bedroomed detached property with associated garden and 2 off-street car parking spaces.
6. The character of the area is made up of tight knit properties interspersed by pockets of green space, generally at the corners of roads similar to that of the appeal site. These small informal green areas provide important breathing spaces and open vistas amongst the existing built development. The provision of the green areas breaks up the development and provides visual interest within the surrounding area, which plays a significant part in defining the local character.
 7. The corner plot position means that the proposed development would be visible from a number of public vantage points, particularly along Rylands Road and Bybrook Road. The proposal has been designed using similar materials found in the locality incorporating facing brickwork and hung tiles, samples of which could be secured by way of a condition. I appreciate the proposal has been designed in a sensitive manner and taken in isolation, the traditional design, height and materials of the proposed development could be in keeping with the surrounding built environment. However, the introduction of a built form on the undeveloped and informal green space would erode the site's positive contribution on the character of the surrounding area.
 8. It has been put to me that the appeal proposal would not appear cramped given it meets the requirements of the Government's nationally described space standards, March 2015. Be that as it may, this does not lead me to a different view, and I do not consider that this compensates for the loss of the important open and undeveloped nature of the site, and thus would not prevent the proposed development from harming the character and appearance of the area.
 9. The appellant also draws my attention to other corner properties in the vicinity that have been developed to provide new residential housing, including 104a Rylands Road. This example provides a new development in a corner plot at the end of a terrace. However, this example is read as part of a terrace that fronts the significantly larger open Rylands Road play area, thus having less of an impact on the smaller pockets of informal open space that characterise the area, and therefore is not directly comparable. Furthermore, this limited example does not provide an overriding influence over the character of the area or streetscene.
 10. Consequently, the proposal would not be compatible or respond with the character of the area and would result in harm and loss of public land that contributes positively to the local character. Accordingly, it would be contrary to Policies SP1, SP6 and HOU3a of the Ashford Local Plan (ALP) adopted February 2019, which require development to be of high-quality design and demonstrate careful consideration and a positive response to sense of place, legibility and quality of public spaces, among other things. Furthermore, it would conflict with the relevant paragraphs of the Framework which also seeks to ensure that development achieves a high standard of design and is sympathetic to local character. However, I do not find conflict with Policy ENV1 of the ALP as this is concerned with biodiversity which is not relevant to this main issue.

Protected European Sites

11. The appeal site is located within the Stour River Catchment which feeds into Stodmarsh Lakes to the east of Canterbury. Stodmarsh Lakes are designated as a Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC), and a Site of Special Scientific Interest (SSSI). Parts of the wider Stodmarsh Catchment are also designated a National Nature Reserve (NNR).
12. Standing advice was issued by Natural England (NE) in March 2020, which was updated in November 2020 and again on 16 March 2022. The NE advice states that the Stodmarsh Lakes SPA, were at risk from increased levels of nitrogen and phosphorus which could adversely affect the integrity of the habitat of the lakes. Accordingly, increased housing within the River Stour catchment area which could give rise to an increased level of nutrient should be subject to screening under the Habitat Regulations and be required to demonstrate 'nutrient neutrality'.
13. As such, this project, either alone or in combination with other relevant projects and plans is likely to result in a significant effect on European Sites. Consequently, as the competent authority I am required to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to its harm on character and appearance, I do not need to consider this matter further, as no significant likely effects on European Sites would arise from my decision.

Other Matters

14. The Government has published the 2022 Housing Delivery Test (HDT) results. The HDT results show that Ashford Borough Council has delivered its housing requirement over the latest period. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework would not be engaged.
15. Even if I was to find that there was a deficit in the five-year supply of deliverable housing sites, the benefits that this modest development would provide, carry moderate weight in favour of the proposal. Given I have found that the proposed development would be harmful to the character and appearance of the area this attracts substantial weight against the scheme. As such, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the ALP policies and the policies in the Framework taken as a whole.

Conclusion

16. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR