



Appeal Decision

Site visit made on 19 January 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/X2220/W/23/3319008

28 Grove Villa, Mill Road, Deal, Kent CT14 9AD

- 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 Impact Developments Deal Ltd against the decision of Dover District Council.
 - The application Ref 21/01088, dated 29 June 2021, was refused by notice dated 22 September 2022.
 - The development proposed is described as 'Erection of a three-storey building containing 16no. self contained flats (8x2 bed and 8x 1 bed) at the front of the site and erection of 12 no.1 bedroom supported living units at the rear in a part one/part two storey building with associated landscaping, cycle storage, external lighting, alterations to existing vehicle access and car parking (existing care home to be demolished)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the consideration of this appeal the revised National Planning Policy Framework 2023 (the Framework) has been published. The main parties have had the opportunity to comment on the relevance of the Framework to this appeal.
3. The new Dover District Local Plan (the DDLP) is currently under examination and was subject to hearing sessions at the end of 2023. Its policies do not yet form part of the development plan, however I have had regard to the emerging policies referred to by the Council below.
4. The description of development in the banner heading above is taken from the appeal form and decision notice, as this reflects the amendments to the proposal made during the application process.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the effects of the proposed block that would face Mill Road.

Reasons

6. The appeal site is in a predominantly residential area within Deal. Mill Road provides one of the boundaries to Victoria Park, which includes a number of facilities including a bowling green and sports pitches, as well as open

grassland. The properties on the northern side of Mill Road together enclose the open space, and can be seen in longer views across the park.

7. The properties on Mill Road vary in their age and appearance, although there are some groups of properties of similar appearance. Materials are predominantly brick and render, of varying shades, and there is a strong degree of consistency in the scale of the buildings, comprising two storeys. Of the examples given of properties with parapets, their heights reflect the prevailing building heights on the road. Other properties have pitched roof forms of varying heights, angles and detailed design, where the roof pitches slope away from the road and substantially reduce the massing of the buildings above the first floor level. The properties closer to the appeal site have gaps between them and soft landscaping to the front gardens which create a spacious and verdant character around the appeal site and contribute positively to the traditional residential character of the area.
8. The proposed building fronting Mill Road would comprise three storeys which would rise notably above the storey heights of other buildings in the surrounding area. While being similar in height to the ridgelines of the neighbouring properties, the top floor would be an unrelieved continuation of the floors below, giving the building a massing substantially at odds with the established character of the area. Given the varied roof forms in the area, the flat roof itself is not objectionable. However in the case of the proposed development, it would accentuate the overall height and bulk of the top floor of the building.
9. There are other buildings nearby which display unusual roof forms, including the Gymnastics Club and Leisure Centre. However, these buildings sit among a different context, being set among open spaces, and their design reflects their function. Similarly, taller buildings that have been highlighted along London Road are inevitably set within a different context and would not form part of the immediate streetscape in which the appeal scheme would be experienced.
10. The proposed materials would include brick to the ground floor level, with fibre cement timber cladding and zinc cladding to the upper floors. The appellant accepts these are not materials found in the surrounding area and there is not sufficient information to demonstrate that these materials would complement and sit comfortably among the more traditional palette of materials found within the vicinity of the site. While the Gymnastics Club has metal cladding, as above, this is visually distinct and lies instead among the recreational facilities of Victoria Park. The prominence of glazing on the front elevation would also deviate further from the established and traditional character of the area and adds to these concerns.
11. In combination, the height and materials of the building fronting Mill Road would fail to have due regard to its context and it would appear heavily at odds with the established character of the area. While the Framework seeks not to prevent appropriate innovation or change, it is not apparent how the proposal has been derived to be sympathetic to the local character and surrounding built environment.
12. The proposal intends to make optimal use of the site for new housing, and I return to this benefit below. The Framework supports development that makes efficient use of land, but requires that other factors are taken into account. This includes the desirability of maintaining an area's prevailing character and

setting, or of promoting regeneration and change, and the importance of securing well-designed and beautiful places. Therefore achieving a high density would not necessarily provide a justification for the harm to the area's prevailing character. While I note the low developer's return described by the viability report, there is not substantive evidence to demonstrate with certainty that the proposal would be unviable at a lesser scale.

13. The appellant has provided a Landscape and Visual Appraisal (LVA) which considers some of the views which may be affected by the proposal. While it finds the proposal would align with the surrounding built form and contribute positively to the urban grain, it does not provide any substantive reasons why the effects of the development would be acceptable in this context. The effects of the proposal set out above would be evident in localised views along Mill Road as well as in other mid-range views across Victoria Park, where its scale and massing would be apparent and harmful.
14. Overall, the proposal would cause harm to the character and appearance of the area and would conflict with the objectives of the Framework insofar as it relates to achieving well-designed and beautiful places. The proposal would also conflict with emerging policies SP2, SP4 and PM1 of the emerging DDLP, which together seek to ensure high quality design which relates well to its context.

Other Matters

15. The site is located in an area where new development could have significant adverse effects on the integrity of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) through creating additional recreational disturbance. The main parties agree that mitigation would be required, but no obligation has been provided to deliver this. However, Regulation 63(1) of the Habitats Regulations¹ indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not therefore necessary to address this in any further detail.
16. The District and County Councils have highlighted contributions to infrastructure which it considers would be necessary to mitigate the effects of the proposal. This includes financial contributions to community services as well as waste disposal, open space and NHS facilities. The appellant does not dispute that such contributions are necessary, however there is no mechanism before me to secure them if the appeal were allowed. In any event, it is not necessary to look at this matter in further detail given that the proposal is unacceptable for other reasons.
17. The terrace of 2- 14 (even) Mill Road is grade II listed. The setting of these buildings, in which they are experienced, comprises the surrounding townscape and established pattern of residential development. Given the distance of the appeal site from that terrace, together with intervening houses, the proposal would preserve the setting of the listed terrace.

Planning Balance and Conclusion

18. The appellant acknowledges that the Council can demonstrate a five year housing land supply. However, the Council have not identified any relevant

¹ The Conservation of Habitats and Species Regulations 2017

development plan policies in this case, only the Framework and policies of the emerging local plan. Therefore, paragraph 11d) of the Framework is relevant to the appeal.

19. If the outcome of the Appropriate Assessment was unfavourable then the policies in the Framework, insofar as they protect habitat sites, would provide a clear reason for refusing the development proposed. If this were not the case, then it should be considered if the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. The proposal would have an adverse effect on the character and appearance of the area, as set out above. This would be significant and long lasting, and would be in conflict with the Framework. As such I ascribe this adverse effect substantial weight.
21. In terms of benefits, the proposal would provide 28 units of accommodation and would optimise the use of the site for new housing. These would be located in an existing built up area with good accessibility to services and facilities including public transport. The main parties agree the site is previously developed land and the new homes would be on a medium sized site which the Framework acknowledges can make an important contribution to meeting the housing requirement of an area and can often be built out relatively quickly. I also note the letters received in favour of the proposal which support the provision of new housing and the use of a derelict site. The proposal would provide opportunities for new areas of soft landscaping to the front of the site, as well as parts to the rear, which would provide some visual and ecological benefit. There would also be some economic benefit arising from the construction process and on-going expenditure by future occupants into the local economy. Together I give these benefits moderate weight, given the local position on the housing land supply and the scale of the development proposed.
22. Some of the proposed homes could be assisted residential care units, however in the absence of clarity in how these would be secured, this does not add additional weight in favour of the development. Although I note the absence of a planning obligation, even if the outcome of the assessment of the SPA effects and contributions to infrastructure were found to be favourable to the appellant, these matters would be neutral in the planning balance and would not weigh in favour of the development.
23. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not, therefore, benefit from the presumption in favour of sustainable development.
24. For the above reasons, having taken account of the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR