



Appeal Decision

Site visit made on 22 January 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/J2210/W/23/3321822

43 Grimthorpe Avenue, Whitstable CT5 4PZ

- 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 Moroko Property Limited against the decision of Canterbury City Council.
 - The application Ref CA/23/00136, dated 27 January 2023, was refused by notice dated 15 March 2023.
 - The development proposed is demolition of existing garage and erection of 3-bed house with associated parking, amenity and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023 the Government published a revised National Planning Policy Framework (Framework) and the 2022 Housing Delivery Test (HDT). At my request, the Council provided what it considers to be its current housing land supply position. It also provided copies of documents relevant to Special Protection Areas (SPAs) referred to in reason for refusal (RfR) 2 in its decision notice. I have taken this into account in determining the appeal, as well as the appellant's comments in response.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the local area, having particular regard to its scale and plot size.

Reasons

4. The appeal site, No.43 Grimthorpe Avenue, contains a semi-detached bungalow similar in design to its other half at No.41 but with a wider side garden plot. At the front this contains a detached single garage end on to the road, in-line with the bungalow. Dwellings along this section of the road vary in age, size, type and design but are mainly set out in discrete frontages of either houses or bungalows in rows along both sides, not haphazard sequences. Near an end, No.43 is in a run of bungalows incorporating Nos.41 to 55, so including either side of it. These bungalows have low-pitched hipped or gabled roofs with limited bulk at a high level which gives a spacious feel to this side and section of the road. They have a broadly uniform subservient relationship to the runs of taller houses either side of them and along the opposite side of the road on higher ground. Residential development behind No.43 to the north is at a lower ground level, so Nos.41 to 55 have a skyline presence as observed from the

road, including glimpsed views of the distant coast and sea through intervening gaps. This alternating pattern of dwelling type, form and layout is locally distinctive.

5. The garage would be demolished and the plot sub-divided into a new garden for the proposed house. Taken with No.41 and No.43 these three adjoining plots would be similar to each other in width, depth and area and to some others in the road. The house would maintain the front building line in the road and in width the footprint would be comparable to No.43 (and No.41) as well as slightly narrower than Nos.45 to 55. Subject to a planning condition the house could be constructed using high quality external materials.
6. However, the first floor and roof of the house would establish substantial bulk and massing at a high level on the site where none exists at present. This upward protrusion of built form would result in an unduly abrupt, jarring transition in the streetscene relative to the bungalows either side and stretch across most of the site frontage close to the road, as well as to each side boundary and behind on the plot at this height. The plots in Hawk Close and Osprey Close to the north have no meaningful spatial or visual relationship to the site because they are lower down the slope and anyway contain mostly bungalows or chalet bungalows, not houses so are not directly comparable.
7. The house would undermine the integrity and cohesiveness of this low-key group of buildings at Nos.41 to 55 and result in an overbearing, overly imposing presence on the site. This would significantly reduce openness, including with narrow views either side through gaps limited in aspect by the depth of the flanks of the house. Though single-storey at the rear with a flat roof, this part of the house would close the gap to the rear boundary of the site and further reduce openness at ground level across most of the new plot.
8. The proposed house and plot therefore fails to respect important aspects of the most relevant established residential development around it. Such a clear contrast would be manifestly out of keeping and incompatible with the prevailing pattern, sequence and layout of that development. As such, this fundamentally incompatible built form would be prominent and conspicuous in public views from the road.
9. As a result, I find that the proposal would cause significant harm to the character and appearance of the local area, having particular regard to its scale and plot size. Consequently, it is contrary to Policy DBE3 of the Canterbury District Local Plan 2017. This policy includes that development should protect or reinforce and positively contribute to the distinctive local context of the site to create attractive places considering townscape character, layout and skyline.

Other Matters

10. The appeal site is within a zone of influence of the SPAs¹. These European sites are designated to protect habitat for important over-wintering bird species. Alone or in-combination with other development the net dwelling gain in this case would have a likely significant effect on the integrity of habitat and species in the SPAs due to recreational disturbance by the additional residents visiting them. During the appeal the appellant submitted an executed 'SAMMS Contribution Agreement'. The appellant considers that it overcomes the

¹ Thanet Coast and Sandwich Bay SPA and Thames, Medway and Swale SPA

Council's RfR2 with provision for a financial contribution towards implementing access management measures in accordance with the Council's adopted strategy². As I understand it, the appellant remains in dialogue with the Council in this regard.

11. Some local residents objected including for other reasons and I have had due regard to these. Nobody has a right to a private view and there is no objective evidence that the living conditions of the occupier of any adjoining dwelling would be materially affected, including with regard to privacy and outlook or natural light to habitable rooms. The increase in traffic would be modest. The Council did not object to the proposal for any of these other reasons and I have determined the appeal on its individual planning merits.

Planning Balance

12. In this case, under Framework paragraph 226, in order to benefit from the need to only demonstrate a 4 year supply of the Council's 5 year requirement (as clarified by Planning Practice Guidance³) there has to be a relevant emerging local plan with *both* a policies map and proposed housing allocation towards meeting housing need. The Council has consulted on a Regulation 18 Draft Canterbury District Local Plan 2020 to 2045. While it contains such an allocation it does not have a policies map, so the Council does not qualify under Framework paragraph 226 which does not therefore apply. As a consequence, a 5 year supply is required under Framework paragraph 77.
13. The Council considers that it can demonstrate a 4.48 year supply of deliverable housing sites including appropriate buffer⁴. This is not disputed by the appellant. On this basis, and notwithstanding the Council's position against the 2022 HDT, by virtue of footnote 8, Framework paragraph 11 d) is engaged in this appeal. The starting point is that planning permission should be granted.
14. The site includes garden land in a built-up area so is by definition not all previously developed 'brownfield' land⁵. There is no apparent reason why it is said to be 'under-developed' or under-utilised other than that it has been fenced off from No.43. Nonetheless, efficient use of suitable small sites for residential windfall development in Whitstable is acceptable in principle and the house could be built relatively quickly. It would contribute to meeting the Council's housing requirement, sustain employment during construction and contribute to maintaining services and facilities in Whitstable. These outcomes would align with objectives of the Framework to significantly boost the supply of homes, meet people's living needs and support the economy. In my view, these notable social and economic benefits in this case each have modest weight in support of the proposal.
15. The house would provide suitable internal and external living accommodation. Subject to conditions there would be satisfactory provision for access and car parking. The absence of harm in these regards is a neutral factor in my decision.
16. However, the proposal would cause unacceptable harm to the character and appearance of the local area. This would undermine the Council's development

² Thanet Coast and Sandwich Bay Strategic Access Management and Monitoring Scheme (SAMM)

³ Paragraph: 056 Reference ID: 68-056-20240205

⁴ Authority Monitoring Report April 2022 to March 2023

⁵ Framework Annex 2: Glossary

plan objectives in this respect. In light of the housing land supply position, reduced weight applies to these policies most important for determining the appeal. Nonetheless, they are broadly consistent with aims of the Framework to achieve well-designed places; including that development should add to the overall quality of the area, be sympathetic to local character and surrounding built environment and maintain a strong sense of place using the arrangement of streets, building types and layout to create attractive, distinctive places to live.

17. Consequently, notwithstanding the housing land supply position and the scale of housing shortfall, I consider that the support given in the Framework to delivering housing is not at the expense of ensuring that residential development is appropriate in relation to its surroundings. In my view these important social and environmental considerations have substantial weight against the proposal.
18. In this appeal policies in the Framework protect an area or asset of particular importance (the SPAs). As the competent authority it would ordinarily be necessary for me to undertake Appropriate Assessment⁶. However, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.
19. Since I intend to dismiss the appeal, even if the proposal did not adversely affect the integrity of the SPAs, so not provide a clear reason for refusing the development, there is therefore no need for me to consider the SPAs any further. This is because it would not affect my decision or alter the outcome of the appeal.

Conclusion

20. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan⁷. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁶ Conservation of Habitats and Species Regulations 2017 (as amended)

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12