



Appeal Decision

Site visit made on 24 January 2024 by

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/J2210/W/23/3315652

115 Reculver Road, Herne Bay CT6 6PB

- 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 John Abbatt (Abbatt Partners) against the decision of Canterbury City Council.
 - The application Ref CA/22/01827, dated 22 August 2022, was refused by notice dated 1 November 2022.
 - The development proposed is the erection of 3 detached chalet bungalows.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 detached chalet bungalows at 115 Reculver Road, Herne Bay CT6 6PB in accordance with the terms of the application, Ref CA/22/01827, subject to the conditions in the schedule below.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice and appellant's appeal form.
3. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning application. It does not raise any new considerations in relation to this appeal.
4. A unilateral undertaking has been submitted with the appeal which provides for a contribution to the strategic access management and monitoring schemes, in respect of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and the Thames, Medway and Swale Estuaries SPA and Ramsar sites. The amount of the contribution matches the sum requested by the Council. I address this matter in more detail in my decision below.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site comprises a block of garages, areas of hardstanding and grass to the rear of a two-storey building that contains three ground floor shop units. There are further shop units in the immediate vicinity of the site, but the area is predominantly residential. Nearby buildings are generally one or two storeys in height and present as either detached, semi-detached or as short terraces. In addition to there being variety in the size and scale of buildings, there is also

variety in the spacing between them, their design, appearance and use of external finishes.

7. Whilst properties in the area generally front onto a road, there is little consistency in building lines. Some buildings are directly adjacent to the public footpath, whereas others are set well back with sizable front gardens. Similarly, some face directly towards the road whereas others are set at an angle to it.
8. Thus, whilst houses fronting onto the road contributes in part to the overall character of this area, I do not find this to be a strong defining characteristic. Rather it is the combination of different types of buildings, their sizes, the gaps between them and the width of the roads, as well as the variety within these broad features which combine most strongly to give the area its particular characteristics.
9. Furthermore, as part of my site visit, I observed that there are some examples of buildings in the area which are set behind others and do not have a direct road frontage. This adds a further element of variety to the wider street scene, without disrupting or harming the overall character of the area.
10. With this in mind, I also note that the appeal site already contains built form set behind existing frontage buildings. Indeed, the existing garage buildings as well as the adjacent bungalows in Queens Avenue, which back onto the site, can be seen from Reculver Road when looking along the site's access road. This existing situation, as well as the appeal site having a degree of activity and displaying a sense of independence from the frontage buildings does not unduly harm the overall character of the area.
11. Whilst the scheme would enable the site to be more readily identified in its own right, the proposed layout and nature of the bungalows would ensure that it would remain largely concealed from wider views. The Council does not object to the design of the houses per se and, to my mind, the proposed bungalows would be an appropriate built form that would integrate visually with the existing, surrounding context. Furthermore, they would have a subservient character to the buildings to the front of the site.
12. Different does not necessarily mean harmful. Given the degree of variation within the site's wider context, and in view of my findings above, I am satisfied that the resulting changes would successfully assimilate into the established fabric of the area.
13. 'Backland' development can by its very nature sometimes be harmful to the living conditions of future occupiers, neighbouring occupiers or have highway safety implications. The Council has not raised any concerns in these respects, and following my site visit I have no reason to come to different conclusions. However, I have considered this appeal on its own merits and based on the available evidence. Thus, it does not automatically follow that the same conclusions would apply to other sites and other proposals.
14. On this main issue, I therefore find that the proposal would not cause harm to the overall character of the area. As such, the proposal would accord with Policy DBE3 of the Canterbury District Local Plan 2017 which, amongst other things, seeks to ensure that developments have regard to the character, setting and context of the site and the way it is integrated.

15. The proposal would also accord with the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character.

Other Matter

16. The appeal site is located within the buffer zone of the SPAs and Ramsar site. These are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017.
17. As a result of the proposed development there would be urbanisation and recreational pressure that, in combination with other plans or projects in the area, is likely to have significant adverse effects upon the protected sites and the wildlife which rely upon them. Therefore, as the 'competent authority', it is necessary for me to carry out an Appropriate Assessment as part of my decision.
18. To mitigate these impacts, the Council expects that a financial contribution is made to the North Kent and Thanet Coast Strategic Access Management and Monitoring (SAMM) Strategies. The collection of the tariff facilitates off-site measures that are intended to avoid significant or long-term impacts. Natural England has endorsed this approach and confirmed that appropriate financial contributions would be effective and reliable in preventing harmful effects.
19. The planning application did not provide any mechanism for a financial contribution, but for this appeal the appellant has now provided a signed and completed Unilateral Undertaking that provides a financial contribution. The Council has indicated that in principle this now addresses their concerns in relation to this matter and their second reason for refusal falls away. They have however raised a query in regard to the monitoring fee being included as an obligation and cited *Oxfordshire County Council v Secretary of State for Communities and Local Government and others* [2015] EWHC 186 (Admin).
20. However, since 1 September 2019, authorities can charge a monitoring fee as part of a section 106 agreement to cover the cost of monitoring and reporting on the implementation of an agreement. Regulation 122 of the Community Infrastructure Levy Regulations 2010 was amended to make provision for local planning authorities to charge monitoring fees in planning obligations, provided the sum is fairly and reasonably related to the scale and kind to the development; and not exceed the authority's estimate of the cost of monitoring the development over the lifetime of the planning obligations which relate to that development. There is nothing before me to indicate the fee would not comply with all the necessary requirements.
21. Given the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose, and that the intended mitigation would be effective to adequately overcome any adverse effects of the proposal.
22. In light of the above and following an Appropriate Assessment, I find that the proposal would not adversely affect the integrity of the SPA/Ramsar sites.

Conditions

23. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended with regard to the advice provided in the Planning Practice Guidance.

24. In addition to the standard time limit condition, it is necessary in the interests of certainty to list the approved drawings.
25. To ensure that the site functions well and integrates successfully into the area, a condition requiring the submission and implementation of hard and soft landscaping details is necessary. The hard landscaping includes aspects such as the access, manoeuvring areas and car parking. The soft landscaping and provision of bird boxes is likely to result in an overall increase in the biodiversity of the site. There is no indication that the site is suitable for bat boxes or indeed that there is bat activity in the area.
26. A separate condition requiring the provision of cycle parking is necessary to accord with development plan requirements.
27. I am mindful that the size of the proposed dwellings and the site layout has informed the consideration of issues such as overlooking of neighbours and the provision of garden space for future occupiers. Given the size of the site and proximity to neighbouring boundaries, I consider it reasonable and necessary to restrict certain permitted development rights. This will allow for full consideration to be given to the effect of further development on the living conditions of future occupants and of neighbours, as well as on the character and appearance of the area.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:

21/2794/PL/SLP	- Site Location & Block Plan
21/2794/PL/02 Rev B	- Site Plan - As Proposed
21/2794/PL/03 Rev A - House Type (1)	- As Proposed
21/2794/PL/04 - House Type (2)	- As Proposed
21/2794/PL/05 - House Type (3)	- As Proposed
- 3) No development above slab level shall take place until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include but are not limited to:
 - i) the access/drive;
 - ii) vehicle parking and turning areas;
 - iii) any other hard surfacing materials including pedestrian access and circulation areas;
 - iv) boundary treatments;
 - v) bird boxes;
 - vi) planting plans and written specifications (including plant supply sizes and proposed numbers/ densities where appropriate).

The approved hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 4) No dwelling shall be occupied until details of secure cycle parking have been submitted to and approved in writing by the local planning authority. The approved cycle parking shall be fully implemented for each dwelling prior to its first occupation and thereafter retained.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development falling within Schedule 2, Part 1, Classes A, AA, B, C and E of that Order shall be carried out to the dwellings hereby permitted without the grant of further specific planning permission from the local planning authority.

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