
Appeal Decision

Site visit made on 9 October 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Appeal Ref: APP/J2210/W/23/3333667

Braggs Lane Farm, Braggs Lane, Herne Bay, CT6 7NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr D Newman against the decision of Canterbury City Council.
 - The application Ref is CA/23/01263.
 - The development proposed is erection of five detached dwellings with associated parking, access and landscaping works.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:-
 - Whether the proposed dwellings would be in a suitable location having regard to local policies and the accessibility of services and facilities;
 - The effect on the character and appearance of the countryside;
 - The effect of the loss of the existing caravan site on the local economy;
 - The effect on the adjoining Childs Forstal ancient woodland; and
 - The effect on the integrity of the Thanet Coast and Sandwich Bay Special Protection Area and the Stodmarsh Special Area of Conservation.

Reasons

3. The appeal site comprises a camping and caravan site which has now closed. A lawful development certificate for use for camping, caravanning and caravan storage was issued in 2022. The land is largely grassed with individual trees and with hedging along some boundaries and across the site as well as limited hard surfacing and modest buildings. Over 20 caravans remain which have not been collected by their owners.
4. Braggs Lane is a no through road, rural in character and flanked by vegetation for much of its length. Built development along it is sporadic.

Location

5. Policy SP4 of the Canterbury District Local Plan of 2017 sets out the strategic approach to the location of development. It establishes that the urban areas of Canterbury, Herne Bay and Whitstable will continue to be the principal focus. None of the circumstances set out in Policy HD4 for allowing new

dwellings in the countryside apply in this case. Therefore, five dwellings outside the defined urban area boundary of Herne Bay as proposed would not comply with the broad spatial objectives for the District.

6. There are no specific Local Plan policies that guide the location of development in relation to access to services and facilities. However, the Framework provides that opportunities to promote walking, cycling and public transport should be pursued and patterns of growth managed accordingly.
7. Because Braggs Lane is narrow, unlit and unpaved it is unlikely that future occupiers would walk along it for about 700m to reach the nearest bus stop. Indeed, it is accepted that they would largely be dependent on travel by car. Trips to the closest towns and their services and facilities might be fairly short but the location of the site would severely limit transport choices. Although the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the proposal would not accord with the broad thrust of national policy in this respect.
8. Therefore, the proposed dwellings would not be in a suitable location and they would be contrary to relevant local policies. As such, they would undermine the spatial strategy.

Character and appearance

9. The large houses proposed seek to emulate the appearance of a manor, a farmhouse, barn and stables. The individual buildings are intended to be of high quality with the palette of materials selected to fit in with the surroundings. However, no detail has been provided of the rationale for their design or the process that led to the proposed layout.
10. Five substantial residential properties grouped together in this relatively remote location would be wholly out of place. They would suburbanise the countryside and would stand out in an unexpected, unwelcome and jarring fashion because of their scale and siting. In conjunction with each other, the attempt to create buildings that resemble those often found in a rural area would be incoherent and make no visual sense. Indeed, the design solution would not be appropriate to the site and the proposal would neither reinforce nor contribute positively to the locality, as expected by Local Plan Policy DBE3.
11. The remaining caravans at the site are barely visible from the lane because of their height. In theory, their number could increase but they would be discretely located due to the existing screening and the set back from the road. By contrast the proposed houses would be taller and would therefore be seen in front of the attractive wooded area to the rear and so would intrude into views of it from Braggs Lane. The visual impact would therefore be unacceptable and the development would not be well integrated into the landscape.
12. Therefore, the proposal would harm the character and appearance of the countryside. In particular, it would not respect the character, setting and context of the site and would be contrary to Policy DBE3 which sets out principles of design.

Loss of tourist facility

13. Local Plan Policy TV4 establishes that the Council will not permit the loss of existing tourist sites unless it can be demonstrated that the use of the site does not make any positive contribution to the local economy. The supporting text specifically refers to protecting caravan sites that make a recognised contribution to attracting and retaining visitors to the District.
14. The caravan site use ceased about three years ago. Before closure it was making a small profit. There is no evidence that the site has been marketed but that is not a requirement of the policy. It lacks many of the facilities that are expected by some campers these days. The site is also not especially close to popular tourist destinations such as the Kent coast or historic Canterbury.
15. The previous tourism use was modest in scale. Its size and relative tranquillity may have appealed to some but in general terms it is understandable that the site could no longer compete with larger sites with better facilities. Obviously, the site currently makes no economic contribution to the area. However, the closure of any tourist site should not be regarded as conclusive in itself as this could be manipulated by other site owners in order to meet the policy test.
16. Nevertheless, there is no evidence about the value of the site to the locality when it was operating or the impact that its closure has had. There is nothing to suggest that the stock of holiday accommodation has been seriously depleted or that the implications for the economy have been adverse. It may be, for example, that those staying at Braggs Lane in the past have simply found other sites in the District. Developing the site would make the loss of the visitor provision permanent but there is nothing to indicate that this would have a negative long-term impact on the economy. This is particularly as Policy TV4 is supportive of new and expanded touring and static caravan sites.
17. It will be difficult for existing sites, whether operating or not, to show that they do not make *any* positive contribution to the local economy. If taken literally this would be likely to prevent new uses ever being accepted. However, in this case, the nature of the site and its drawbacks mean that replacing the past use with housing would have an insignificant effect on the local economy. As a result, there would be no conflict with Policy TV4.

Ancient woodland

18. The appeal site borders the Childs Forstal ancient woodland which is also designated as a Site of Special Scientific Interest. The proposal includes a 15m buffer zone between the proposed houses and the edge of the trees. The Council is nonetheless concerned about the vulnerability of this area to mismanagement and the potential for it to be included within the curtilages of the properties. This could expose the woodland to risks from domestic activity, the spread of non-native species and consequent deterioration.
19. However, there is no reason why such matters could not be addressed in a management plan as part of any condition attached to a planning permission. This could include a requirement for the area to be fenced off and for signage to be displayed as well as securing a suitable management regime. It is also not obvious why Kent Wildlife Trust would need to be a party to any formal agreement since it does not own any part of the appeal site.

20. The objection to the proximity of residential use to the important ancient woodland could therefore be overcome by condition. As such, there would be no conflict with Local Plan Policy HE13 which seeks to preserve and enhance the historic landscape including ancient woodlands or with Policies LB9 and LB10 which seek to protect important habitats and woodlands.

Integrity of the Thanet Coast and Sandwich Bay Special Protection Area and the Stodmarsh Special Area of Conservation

21. The Thanet Coast and Sandwich Bay Special Protection Area (SPA) provides habitats for over-wintering birds. Because it would be within the zone of influence the proposal has the potential to affect its features of interest. In combination with other development, it would be liable to lead to recreational disturbance and so have a detrimental impact on the birds. There would therefore be a likely significant effect on the SPA.
22. To mitigate this impact the Council expects that a financial contribution is made to the Strategic Access Management and Monitoring measures. However, whilst the appellant has indicated a willingness to make the necessary payment a completed planning obligation has not been provided. There is therefore no means to secure the appropriate sum and ensure that mitigation is undertaken.
23. As a result, following an appropriate assessment, the proposal would adversely affect the integrity of the SPA and would be contrary to Policy LB5. This establishes that sites of international conservation importance must receive the highest levels of protection. The mitigation expected by Policy SP6 would not be secured. Moreover, in these circumstances, the Conservation of Habitats and Species Regulations precludes the proposal from proceeding.
24. The Council raises concerns about the effect on the Stodmarsh Special Area of Conservation (SAC) due to an increase in overnight stay accommodation. However, the undisputed evidence is that the site falls within the Oyster Coast Brooks operational catchment and so outside the Stour catchment area which serves the designated site. There would therefore be no consequences for water quality at Stodmarsh and no likely significant effect on the SAC.

Other Considerations

25. The delivery of housing in Canterbury has exceeded 75% of the housing requirement over the last three years according to the latest Housing Delivery Test results. As a supply in excess of four years can be demonstrated and as paragraph 226 of the Framework applies, there is no need to assess the proposal against paragraph 11 d) ii. Additional dwellings here would nonetheless contribute towards the supply of homes.
26. The site could lawfully be used for caravan storage all year round. The appellant's plan shows how between 170 and 200 caravans could be physically accommodated. These could be brought onto and off of the site by vehicle at any time and the local planning authority would have no control over the use or the visual implications.
27. However, the appellant also notes that the caravan storage operation had been reducing prior to closure as the weather had restricted the times when owners could collect their caravans. There is no reason to suppose that this position would change in the future and therefore the likelihood of a large

number of caravans being stored at the site is low. This potential fallback position is therefore not a matter that strongly favours the proposal.

28. Biodiversity net gains equivalent to 61.69% for area habitats and 25.93% for linear habitats would be achieved. This is consistent with the objective in the Framework of enhancing the natural environment. Improvements would be made by additional planting including mixed scrub habitat at the boundary with the woodland and the creation of species rich, native hedgerows. This would be beneficial although the importance is tempered by the existing ecological value of the site which affects the percentage increases. This matter is therefore of moderate weight in favour of the proposed dwellings.
29. They would incorporate solar panels with battery storage and heat pumps as well as making provision for the charging of electric vehicles. In this way the proposal would increase the use of low carbon energy and heat to meet the challenge of climate change in line with the Framework. However, there is nothing exceptional about their inclusion and so this aspect of the scheme is also of moderate positive weight.

Final Balance

30. There is no objection to the loss of the existing caravan site and the possible effect on the adjoining Childs Forstal ancient woodland could be dealt with by condition. However, the proposed dwellings would not be in a suitable location for development when judged against the strategic approach contained in the Local Plan. Furthermore, they would harm the character and appearance of the countryside. The integrity of the SPA would also be adversely affected. The proposal would not accord with the development plan.
31. The benefits associated with the scheme of increasing the housing stock, removing the possibility of future caravan storage, biodiversity gains and sustainable energy sources are together not of great force. They do not outweigh the significant objections identified. In any event, the impact on the SPA is decisive.

Conclusion

32. The material considerations outlined above do not indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR