

Appeal Decision

Site visit made on 9 September 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2024

Appeal Ref: APP/J2210/W/24/3341196

51 Whitstable Road, Blean, Kent CT2 9EB

- 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 John Rofo against the decision of Canterbury City Council.
 - The application Ref is CA/23/01231.
 - The development proposed is a new dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellants have submitted a revised plan to demonstrate how a fire appliance could access the site. The Council has confirmed that in light of this information its second reason for refusal has been overcome. The Council therefore no longer contests that reason for refusal and I see no reason to disagree. The appeal has been determined on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including the effect on the significance of the non-designated heritage asset; and
 - the integrity of the features of the Stodmarsh Nature Reserve Special Area of Conservation and Ramsar site, with particular regard to nutrient neutrality.

Reasons

Character and appearance

4. The appeal site is part of No 51 Whitstable Road (No 51), which includes a detached two-storey dwelling within a spacious and verdant plot. Blean Primary School lies on the opposite side of Whitstable Road, but otherwise the development in the area is typically characterised by dwellings fronting the road in a primarily linear pattern. To the rear of the dwellings, development is typically limited. However, to the side of the site and to the

rear of Wheelwrights Cottage is a single-storey dwelling, which fronts a narrow cul-de-sac.

5. The proposal is for a detached dwelling within the rear garden of No 51. The development comprises a considerable building in the rear garden of No 51. Its position immediately behind the existing dwelling, although similar to the existing single-storey dwelling at the side, would be discordant with the prevailing linear pattern of development in the area, where properties have a strong relationship to Whitstable Road.
6. The front elevation of the proposed dwelling would be oriented towards the side of the site, which would result in an awkward relationship with No 51. While the dwelling would be largely screened in views from public vantage points it would be glimpsed to either side of No 51. The presence of a substantial dwelling to the rear of No 51 would be at odds with the established layout of the area. Furthermore, the dwelling would erode the spaciousness, which characterises the areas to the rear of properties fronting Whitstable Road.
7. There are dwellings to the rear of those fronting Whitstable Road to the side of the site. However, this is an isolated example where the dwellings front the narrow track leading to a single dwelling further to the rear of the frontage development. Moreover, the dwelling adjacent to the site is considerably smaller in scale than the proposed dwelling and is discreet when viewed from Whitstable Road. The visual contrast between the existing dwelling and the incongruous scale of the proposed dwelling, when viewed close together, would emphasise the harmful incompatibility of the proposal with the character and appearance of the area. The harm identified could not be mitigated through use of materials or additional landscaping, given the need to access the dwelling to the side of No 51 following the removal of the existing garage.
8. The existing building at No 51 is a two-storey dwelling finished with painted weatherboarding and render with parallel ranges and a hipped tiled roof. The front elevation has bay windows either side of a door and has a pleasing aesthetic. The existing dwelling is locally listed and is therefore a non-designated heritage asset (NDHA).
9. Paragraph 209 of the National Planning Policy Framework (the Framework) states that the effect of an application on the significance of a NDHA should be taken into account and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In addition, the Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Setting is not fixed and may change as the asset and its surroundings evolve.
10. The building has undergone several phases of change, including 20th Century extensions to the dwelling and the erection of the garage to the side. Furthermore, the area surrounding the site has evolved through the construction of new dwellings along Whitstable Road. While the alterations to the building and the changes to the surroundings have eroded its historic and architectural value, it is nonetheless a NDHA, given its age and

appearance in relation to the area. The verdant and spacious character of the land to the front and rear of the existing dwelling positively contributes to its significance.

11. The proposal would considerably reduce the space to the rear of the site. In addition, the uncharacteristic positioning and unsympathetic scale of the dwelling to the rear of the NDHA would result in harm to the significance of the NDHA. However, the level of harm which would be caused to the significance of the heritage asset would be low on account of the apparent limited significance of the NDHA.
12. In support of the appeal, my attention has been drawn to a number of other developments granted planning permission in Blean, Barham and Harbledown which the appellant considers to be similar to the proposal. However, as per my previous findings, backland/tandem developments in this location are very much in the minority. Furthermore, I do not know the full circumstances of the cases drawn to my attention or the policies that applied at the time of their consideration. It follows that I cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined the appeal proposal on its own merits.
13. I conclude that the proposal would harm the character and appearance of the area and the harm the significance of the NDHA. The development would therefore conflict with Policies SP1, SP4, DBE3, HE1 and HE4 of the Canterbury District Local Plan 2017 (LP), which collectively, amongst other things, require development to respond to the existing character, setting and context of a site; and to preserve or enhance the significance of heritage assets.

Nutrient neutrality

14. The Stodmarsh Nature Reserve Special Area of Conservation and Ramsar site is protected under European Law and managed by Natural England (NE). NE has identified that the water quality in the lakes at Stodmarsh has deteriorated and this is linked to the discharge of wastewater from new homes in the Stour Valley river catchment area, which the appeal site is within.
15. The need to protect and safeguard the Stodmarsh sites means development proposals are considered in the light of the Conservation of Habitats and Species Regulations 2017 (the Regulations), with the aim of maintaining or restoring, at favourable conservation status, the natural habitats and species. The consideration of any measures to avoid or reduce the harmful effects upon the Stodmarsh sites and achieve nutrient neutrality can only be taken into account at the Appropriate Assessment stage of the Habitats Regulation Assessment. The general advice is that mitigation within such a development site should be considered first to minimise the contribution from the development itself. Where it is not possible to provide or secure the necessary mitigation in this way, then mitigation on land outside the development can be considered.
16. The appellant states that an Appropriate Assessment is to be carried out prior to the development of the site and that this would consider any necessary mitigation measures to prevent any further harm to the

Stodmarsh sites. In my role as competent authority, an Appropriate Assessment would be required at decision making stage if I am minded to grant planning permission in order to consider whether there are any credible likely significant effects from the proposal, either alone or in combination with other plans or projects, on the integrity of the sites. In the absence of any information to demonstrate that wastewater resulting from the proposal would not have an adverse significant effect on the Stodmarsh sites or would be nutrient neutral such that any effect would be negligible, I cannot be certain that the mitigation measures would be forthcoming or implemented in an effective and timely manner.

17. Policy LB5 of the LP states that no development will be permitted which may have an adverse effect on the integrity of a SAC, Special Protection Area or Ramsar site alone, or in combination with other plans or projects. This is reflected in the Framework which clearly indicates that planning permission should be refused for development that would result in significant harm to biodiversity and/or result in the loss or deterioration of irreplaceable habitats.
18. Without the necessary evidence and details of any mitigation to be secured at the decision stage, I am unable to undertake an Appropriate Assessment. Given my duties under the Regulations, I conclude that the proposal would have a harmful effect on the SPA and Ramsar site and would not accord with Policy LB5 of the LP, which state that sites of international nature conservation importance and national nature reserves must receive the highest levels of protection. Nor would the proposal comply with the Framework as outlined above.
19. In reaching the above conclusion, I have found no specific conflict with the Policy LB6 of the LP which relates to Sites of Special Scientific Interest (SSSI), as the evidence before me indicates that there is sufficient separation distance to the Church Wood Blean SSSI to avoid any harmful impacts upon it.

Planning Balance

20. The appellant states that the delivery of housing within the Council area was substantially below (less than 75% of) the housing requirement over the previous 3 years. However, in response the Council have provided the results of the most recent Housing Delivery Test, which indicate that the delivery of housing within the Council area was 75% of the housing requirement over the previous 3 years and the appellant has not disputed this.
21. Even if I were to accept that the Council was failing to meet its Housing Deliver Test targets, Paragraph 11 d) states that planning permission should be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed. Footnote 7 of the Framework details that this includes policies relating to habitats sites.
22. The proposal would make a positive contribution to housing supply and delivery. In addition, there would be associated social and economic benefits during the period of construction and once the dwelling is occupied, including

providing the appellant with a home to meet his future needs and supporting local services. However, the contribution of one additional dwelling to meeting housing need in the Council area through a more efficient use of land in an urban area and the associated benefits, including energy efficiency, are nevertheless limited by the scale of development proposed and would not outweigh the harm identified to the character and appearance of the area and the significance of the NDHA.

23. The proposal would not harm the living condition of the occupants of neighbouring properties and would provide suitable living conditions for future occupants of the dwelling. In addition, the removal of trees would not be harmful, whilst the proposal would have suitable access arrangements and not result in the increase of flood risk. However, as these are neutral factors, they would not outweigh the harm identified.
24. In any case, given that the proposal would have a harmful effect on the SPA and Ramsar site, the application of the policies in the Framework provide a clear reason for refusing planning permission for the development proposed. When considered as a whole, the proposal does not conform with the presumption in favour of sustainable development outlined in paragraph 11 of the Framework.

Conclusion

25. The proposal conflicts with the development plan. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR