



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: 25 October 2024

Appeal Ref: APP/X2220/W/24/3340724

Land east of Jubilee Road, Worth, CT14 0DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Stevens and Ms S Morgan against the decision of Dover District Council.
 - The application Ref is 23/00769.
The development proposed is the erection of 30 dwellings with creation of new accesses and associated parking and gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with only the matters of layout and access to be considered at this stage.
3. As part of the appeal, the appellant undertook a sequential test in relation to flood risk. The Council accepts that this has been passed and there is no evidence to the contrary. As a result, and subject to the implementation of the measures specified in the Flood Risk Assessment, this objection has been overcome.
4. The Dover District Local Plan to 2040 was adopted in October 2024. As this now forms part of the development plan, the appeal will be assessed against it.

Main Issues

5. These are:
 - Whether the proposed development would be in a suitable location having regard to relevant local policies;
 - The effect on the character and appearance of the surrounding area;
 - The effect on the setting of St Peter and St Paul's church (grade II* listed building); and
 - The effect on the integrity of the Thanet Coast and Sandwich Bay Ramsar site and Special Protection Area.

Reasons

Location

6. The appeal site is an open field on the eastern side of Jubilee Road between two short rows of houses. It is outside but adjacent to the settlement boundary of Worth as shown on the Policies Map. Because Policy WDP02 of the Worth Neighbourhood Plan deals with development proposals inside the settlement confines, it is not relevant to the appeal.
7. Part of the site along the road frontage is allocated for housing by Local Plan Policy SAP49 with an estimated capacity of 10 dwellings. This provides that planning permission will be granted for proposals that accord with other Plan policies and which address the site-specific issues and requirements. The Inspectors' Report of September 2024 found that the allocation boundary was reasonable and justified and consistent with the prevailing pattern of development. Furthermore, that: *"There are no soundness reasons to extend the boundary or modify the scale of housing proposed."*
8. However, the Local Plan was examined against the tests of soundness set out in paragraph 35 of the National Planning Policy Framework. Applications for planning permission and subsequent appeals are not judged in the same way. The Inspectors' findings therefore do not automatically preclude acceptance of proposals on a larger site and for a greater number of dwellings than envisaged by the policy. Rather the proposal should be assessed against the policies in the Local Plan taking account of material considerations.
9. Policy SP3 sets the housing target and anticipates that the majority of new development will be in Dover Town and at Whitfield. Windfall housing development will be permitted where it is consistent with the spatial strategy for growth and with other policies. In this regard, Policy SP4 indicates that residential windfall development will be permitted adjoining the boundaries of several settlements, including Worth, if it is of a scale commensurate with the existing settlement. This is also subject to other criteria being met.
10. Worth has a public house, primary school, nursery, church, allotments, village hall and sports and recreation facilities. There is no retail shop or medical facilities. The school bus service stops in Jubilee Road and there is also a limited daily service from Worth to Deal. Policy SP1 aims to reduce the need for travel as part of planning for climate change and Policy TI1 refers to maximising opportunities for sustainable transport modes. However, whilst the range of facilities is not large and the transport choices are limited, the village has been identified as one where proportionate additional development can take place. There are therefore no grounds to reject the proposal solely on the basis that future occupiers would mainly be reliant on the private car.
11. Criterion a) of Policy SP4 expects development to be of a scale that is appropriate to the size, role and function of the settlement and the range of services and community facilities that serve it. Criterion b) similarly indicates that development should be subordinate to the community it adjoins. In assessing this, account should be taken of the allocation to the east of the former Bisley nursery for approximately 15 dwellings. Thirty-six new houses have also been built recently as part of the St Crispin Close development.

12. Other than commenting that Worth is at the middle/lower end of the larger villages identified in Policy SP4, there is no tangible evidence that 30 extra dwellings would represent disproportionate growth. In particular, there is no detail about the current number of houses at Worth or the effect that the proposal would have on existing services or the community at large. However, it is a reasonable sized village and the proposal would not swamp it physically. Furthermore, there is nothing to show that existing facilities would be overwhelmed. Worth would remain as a medium sized village and would not be transformed into a different type of settlement.
13. The relevant policy criteria relating to windfall development would therefore be complied with and the scale of the proposal would be commensurate with the existing settlement as required by Policy SP4. As such, there is no objection to the location of the proposed development of 30 houses and no consequent conflict with Policies SP1, SP3, SAP49 or TI1.

Character and appearance

14. Worth has a historic core centred around the pond including the church, school, public house and other older buildings. The housing along The Street to the west is more modern with cul-de-sacs off it creating development in depth. This includes St Crispin Close and Sole Close. The allocation at the former nursery would also be to the rear of The Street.
15. However, the pattern of development along Jubilee Road is different. It is essentially linear with significant gaps between the groups of houses. The residential buildings are therefore intermittent and located along the road frontage. By contrast, the proposed layout would place dwellings behind the existing ones along Jubilee Road. It would also create two cul-de-sacs with buildings sited at right angles to the road rather than facing it as is the norm. The proposal would be viewed and understood in the context of its immediate surroundings in Jubilee Road. In this regard it would be an alien and jarring addition to the street that would be incompatible with its distinctive features.
16. As a result, it would not integrate successfully with the layout and appearance of the existing settlement as required by criterion b) of Policy SP4.
17. The site allocation confirms that an appropriate landscape buffer is required along the eastern boundary of the site. The supporting text to Policy SP4 explains that the intention of this is to limit views into and out of the development to ensure that it blends in with its setting.
18. Landscaping is a reserved matter so the details of any planting could be agreed at a later stage. However, if permission were granted the layout of the buildings and access roads would be fixed. This means that in some places only very limited scope would exist for planting. Furthermore, seven of the houses would face eastwards towards the open land and fields beyond the appeal site. This may inhibit the scope for meaningful planting given that future occupiers are likely to wish to retain outward views. These drawbacks mean that the creation of an adequate buffer is far from certain. This is an important part of the expectations for windfall development outside settlements and so this also counts against the proposal.
19. Built form would be closer to the open arable landscape to the east than the houses on the western side of Jubilee Road. The Landscape Visual Appraisal

concludes that distant views would largely be unchanged as the existing buildings are currently visible. It is expected that over time the enhancements proposed along the boundary would mature and so reflect the surroundings.

20. Although the line of properties on the western side is seen from afar from public rights of way, the policy intention is to enhance landscape character. The likely long-term effectiveness of peripheral planting is questionable and so whether the scheme could realistically achieve the ambition of the policy is doubtful. It is not apparent that this matter could be satisfactorily addressed in due course given the layout proposed. Because of this, and as it would markedly spread built form to the east, the proposal would harmfully intrude into the open countryside contrary to criterion d) of Policy SP4.
21. The arrangement of existing properties along Jubilee Road suggests that the 10 houses anticipated on the allocated site could be laid out with adequate spacing between them. Consequently, the proposal would not necessarily be superior in this respect to what has been committed in the Local Plan.
22. Overall, the proposed development would harm the character and appearance of the surrounding area. It would conflict with Policies SP4 and SAP49 in this respect.

Setting of listed church

23. Section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 sets out a general duty to have special regard to the desirability of preserving listed buildings or their settings. This is a matter of considerable importance and weight. The Framework provides that great weight should be given to the conservation of heritage assets.
24. The shingle spire of St Peter and St Paul's church (Grade II* listed) is unusual. The building is an important local landmark with historic, architectural and cultural significance. Long distance views allow it to be appreciated. The vistas of the church from Jubilee Road and from further away to the east are already inhibited by trees and existing buildings. The top of the spire nevertheless peeks over the top of them from certain angles.
25. The layout would retain some views through to the spire from within or just outside the appeal site. From further afield the new houses would be unlikely to interfere with or block long range views of the church to any meaningful degree. The Council's main complaint is that these have not been adequately assessed and Policy SAP49 requires the submission of a heritage statement. However, there is enough information to be satisfied that the setting of the church would be preserved and so its significance would not be impaired.
26. As such, there would be no conflict with Local Plan Policy HE1 which seeks to protect designated heritage assets. Similarly, there would be no adverse impact on Worth Conservation Area which is about 30m from the appeal site and the proposal would therefore comply with Policy HE2.

Integrity of Ramsar site and SPA

27. The Thanet Coast and Sandwich Bay Special Protection Area (SPA) is used by large numbers of migratory birds. Of particular importance are over-wintering turnstones, European golden plovers and breeding little terns. Because it would be within the 9km zone of influence radius of the SPA specified in Local

Plan Policy NE3, the proposal has the potential to increase visitor numbers and so have a detrimental impact on the birds. Together with other developments in Dover District, there would therefore be a likely significant effect on the SPA.

28. To mitigate this impact, the Council expects that a financial contribution is made to the Strategic Access Mitigation and Monitoring Strategy. This includes a range of management and engagement measures such as a delivery officer, signage, information campaigns and surveys. However, whilst a template unilateral obligation has been provided, this has not been completed. There is therefore no way to secure the appropriate tariff and so ensure that mitigation is undertaken.
29. Furthermore, the site is located about 260m to the east of the Thanet Coast and Sandwich Bay Ramsar site. This is also a wetland area. Policy SP13 of the Local Plan highlights the possible need for project level assessment for development within 500m of the Ramsar site. Indeed, the Habitats Regulations screening assessment concludes that it is likely that indirect impacts would occur from increased noise and light levels during construction and operational phases as well as increased recreational pressure. Cumulative effects have not been identified but, in any event, there would be a likely significant effect.
30. As well as the scale of development and its proximity, there are public rights of way that lead from Jubilee Road towards and into the habitats site. These would be likely to be highly attractive routes for any dog owners living in the proposed houses. The birds are susceptible to disturbance from this source but no specific mitigation measures are proposed to address this matter. Conditions could be imposed in relation to the indirect effects but there is insufficient detail to be confident that the integrity of the site would not be adversely affected.
31. Furthermore, the Hydrological Assessment and Water Features Survey concludes that further investigation to support a Tier 2 assessment is required. This is to allow hydrological risks to the Ramsar site to be more definitively assessed. Although the intention is to limit any net change in infiltration which may flow from the site into the wetland, there is insufficient certainty that this aspect of the scheme would not also give rise to an adverse impact.
32. As a result, following an appropriate assessment, the proposal would adversely affect the integrity of the Ramsar site and the SPA and would be contrary to Policies SP13 and NE3. These seek to protect designated environmental sites and biodiversity assets. The mitigation expected would not be secured and no detail has been given about how negative consequences for the nearby Ramsar site could be avoided. In these circumstances, the Conservation of Habitats and Species Regulations precludes the proposal from proceeding.

Other Considerations

33. The Council has detailed a series of contributions that it requires relating to matters such as education and health and social care provision. It also expects 30% affordable housing to be secured. These are directly related to the proposal. From the available evidence, they are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind. In the absence of a completed obligation, the failure to contribute to necessary infrastructure and to provide affordable housing in line with policy expectations is therefore a further objection.

34. The proposal would make a significant contribution to the amount of family housing in Worth. The Neighbourhood Plan notes that people move out of the village as they are unable to find suitable accommodation although that document is somewhat dated. Extra residents would nevertheless potentially support local services such as the school and the public house and so enhance or maintain the vitality of the community. The construction period would employ a range of skilled personnel. This would be beneficial although not quantified. These matters all favour the proposal but not to a significant degree, especially as new housing on a smaller site has been accepted.
35. A considerable number of objections were received at application stage, including those from the Parish Council. In addition to matters already covered, these concern, amongst other things, additional traffic and on-street parking, highway and pedestrian safety, sewage disposal, privacy and loss of daylight and sunlight. These matters were addressed in the officer report and do not add to the objections already identified.

Final Balance

36. The proposal would broadly comply with the development plan policies relating to the location of development and the setting of the adjoining listed church would be preserved. However, it would harm the character and appearance of the surrounding area and so not comply with the detailed criteria relating to windfall residential development. Furthermore, the integrity of the nearby Ramsar site and of the SPA would be adversely affected. Because of the absence of an obligation, the infrastructure requirements arising from the scheme and the policy expectations for affordable housing would not be met. Taken as a whole, the proposal would not comply with the development plan.
37. The benefits associated with the scheme are not of great force. They do not outweigh the significant objections identified. In any event, the impact on the Ramsar site and the SPA is decisive.

Conclusion

38. 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