



Appeal Decision

Site visit made on 17 December 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/E2205/W/24/3342869

Land at Hatfield Lodge, The Street, Chilham, Kent, CT4 8DP

- 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 David Greenhaigh against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/1221.
 - The development proposed is described as the erection of one and a half storey dwelling, following the demolition of existing garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. There are no changes to the relevant sections that are material to the scheme before me, thus no further comments were sought by parties. Consequently, I have determined the appeal having regard to the revised Framework, and any references are to this version.

Main Issues

3. The main issues are the effect of the proposal on:
 - the integrity of the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site;
 - the character and appearance of the Chilham conservation area, the setting of the grade II listed buildings of Hatfield Lodge, Hatfield House and The Woolpack Inn and the surrounding area; and
 - the impact on trees.

Reasons

Integrity of the Stodmarsh SAC, SPA, SSSI and Ramsar site

4. The appeal site is located within the Stour River catchment, which feeds into Stodmarsh Lakes. There are several internationally protected sites within the lakes including a SAC, SPA, Ramsar Site and SSSI. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the 'competent authority' must,

before any grant of planning permission, make an Appropriate Assessment (AA) of the project's implications in view of the relevant conservation objectives.

5. Natural England have issued standard advice¹ that all new residential development in the River Stour catchment needs to demonstrate nutrient neutrality to ensure that any increase in levels of nitrogen and phosphorus are not discharged into the Stodmarsh Lakes. The appellant has submitted a Nutrient Mitigation Statement which indicates that the proposed development does not include on-site mitigation, and thus will rely on the Ashford Borough's mitigation strategy coming forward. The appellant further indicates that a pre-commencement condition could be attached to any permission to ensure the appropriate mitigation measures are applied.
6. From the information before me the Ashford Borough's mitigation strategy will consist of a joint credit trading platform with Canterbury City Council, where developers will be able to buy and sell nutrient mitigation credits. The credits would be used to contribute toward any off-site works needed to mitigate the effect of developments on the Stour River catchment. However, this has yet to be finalised.
7. There is no evidence before me that a strategic mitigation scheme exists, as such it is unclear how the proposal would contribute to this. Furthermore, even if the mitigation strategy was in place, I have not been presented with any mechanism to secure these contributions. Without the necessary evidence and/or mitigation details, I cannot be sure that the additional wastewater generated by the development, either on its own or in combination with other plans or projects, would not contribute to a further deterioration in the water quality of Stodmarsh Lakes. This prevents me from completing an AA that finds positively in favour of the scheme on this issue.
8. Whilst it is likely that the effect of the proposal would be small, based on a precautionary approach consistent with the Habitats Regulations, I conclude that the appeal scheme would have an adverse effect on the integrity of the Stodmarsh SAC, SPA, SSSI and Ramsar sites. Consequently, the proposal would be contrary to policy ENV1 of the Ashford Local Plan 2030 (ALP) adopted February 2019, which states that development that would have an adverse effect on the integrity of internationally protected sites will not be permitted. The development would also be contrary to paragraph 193 of the Framework. This indicates that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort, compensated for.

Character and appearance

9. The appeal site is located within the residential settlement of Chilham, close to the junction of Hambrook Lane, The Street, Bagham Road and Herons Close. Chilham has a historic village feel, with local services which include public houses, a post office and recreational facilities, however the main character is made up of traditional residential properties. The appeal site is located in the Chilham conservation area (CCA). It is also located within the setting of designated heritage assets, Hatfield House and Lodge, and The Woolpack Inn which are all grade II listed buildings.

¹ Letter dated 31 July 2023 Ref: 442467

10. As such, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to have special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest. Also, I have a statutory duty under section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the CCA.
11. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
12. Paragraph 219 of the Framework requires new development within the setting of a conservation area to enhance or better reveal its significance. The Framework defines the setting of a heritage asset as *"the surroundings in which a heritage asset is experienced."*
13. The significance of the CCA is characterised by its historic and architectural importance, given that it was founded on the ancient defensive settlement of Chilham Castle which forms the focus for the cluster of development. This particular part of the CCA provides an interesting entrance to the village from Bagham Road, with The Woolpack Inn occupying a conspicuous focal point and along with Hatfield House and Lodge, they create an attractive informal group, which contribute positively to the significance of the CCA.
14. The existing garage is a more recent addition in the CCA, consisting of a modest single storey structure with a flat roof. Whilst occupying part of the grounds associated with Hatfield Lodge, its position away from the main house provides a subservient feel, and visually, the garage appears more associated with the neighbouring property at Hatfields. There are several well-established trees located around the boundary that provide a good screen of the proposal from any views outside the site. Both parties acknowledge that the existing garage detracts from the significance of the CCA and the setting of the listed buildings, and overall, the site would benefit from its removal and replacement.
15. The proposal would provide a new two-storey dwelling (albeit the upper floor accommodation is within the roof space) on the same footprint as the existing building. Given the existing residential setting, the provision of the modest dwelling would not be considered either out of keeping or cramped in that regard. The property would utilise the existing layout and set back from the street, providing a secluded location and reducing the visual impact of the proposal, such that it would not be considered significantly visually dominant or overbearing. As such, the layout, design and appearance of the proposal would be appropriate and compatible with the character and the density in the surrounding area.
16. It is acknowledged that the proposal would increase the scale of the development, however whilst the increased height and the provision of the pitched roof would increase the size of the property (to meet residential accommodation standards), the proposal would nevertheless still appear as a subservient feature within the setting of Hatfield House and Lodge and the CCA in general. The use of

appropriate materials could be secured through condition, to ensure that the proposal respects the heritage assets. Consequently, I find any harm to the setting of the listed buildings and the significance of the CCA would be less than substantial in this instance.

17. In accordance with paragraph 220 of the Framework, that harm, albeit limited, should be weighed against any public benefits of the proposal. The site would give rise to some economic benefits during the construction phase, and I also consider that there would be a social benefit arising from the contribution to the Council's housing supply, noting the Framework highlights the role that small and medium sized sites can make to meeting the housing requirements of an area. To these benefits I attach significant weight.
18. Overall, the collective public benefits are sufficient to outweigh the less than substantial harm that would occur as a result of the scheme, and consequently the development would at the very least preserve the character and appearance of the CCA and surrounding area and setting of the nearby listed buildings. The development would therefore not conflict with policies SP1, SP6, HOU3a, ENV3b, ENV13 and ENV14 of the ALP. Collectively these seek a high standard of design, to ensure the appearance of developments would be appropriate and compatible with the surrounding character, whilst conserving landscape and preserving heritage assets. The proposal would also be consistent with the Framework which seeks high standards of design that would conserve and enhance the historic environment, amongst other things.

Impact on trees

19. The site benefits from a well-established tree line along the boundary, which provides screening of the site and has a high amenity value. Consequently, the appellant has submitted an Arboricultural Impact Assessment (AIA)² as part of the appeal, to ensure that the proposal would not have any negative impacts on the existing trees. The AIA identifies 4 individual trees and 2 groups of trees at the site. The Tree Protection Plan which accompanies the AIA highlights which of these trees would be protected, and which would be removed to facilitate the proposal or are recommended for removal on arboricultural grounds.
20. The AIA also includes an Arboricultural Method Statement (AMS) which highlights the measures to safeguard the retained trees (both above and below ground parts) during the development works and preserve the soil structure of areas which could be allocated for new planting.
21. All the individual trees (T1, T2, T3 and T4) are to be retained although the AMS highlights the proposal would encroach within the Root Protection Areas (RPA) of T1 and T4. Nevertheless, any impacts on the RPA are considered low, with any excavation works to be carried out by hand under direct arboricultural supervision, to minimise disturbance.
22. G5 is a mixed species group which has been identified as dead and would need to be removed and replaced, irrespective of the proposal. Details in the AMS identify that the appellant proposes to replace G5 with a new group of trees, consisting of 7 x 4m Hornbeams, to maintain screening around the site. As such, I consider that the loss in the amenity, if these trees were to be removed, can be satisfactorily

² Prepared by Challice Consulting Ltd dated February 2024 Ref: AR5394

offset by the planting of the new replacement trees. This could be secured by a suitably worded condition.

23. From the details before me, and in the absence of any evidence to the contrary, I am satisfied that the proposed works, whilst within the RPA of the existing trees, would not be of a level to cause significant harm to the trees, and meets the criteria set out in BS5837:2012 in terms of acceptable levels of encroachment into an RPA. Furthermore, there is adequate mitigation for the loss of the G5 trees, such that the proposal would not cause harm to the character and appearance of the area.
24. Consequently, the proposal would accord with the relevant provisions of policies SP1, HOU3a, ENV1 and ENV3b of the ALP, insofar as they relate to conserving the natural environment and would not harm landscape or biodiversity interests. Nor do I find conflict with paragraph 136 of the Framework which states that trees make an important contribution to the character and quality of urban environments.

Conclusion

25. Taking all of the above into account, the proposal would therefore conflict with the development plan taken as a whole and there are no other material considerations to indicate that my decision should be made other than in accordance with the development plan.
26. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR