



Appeal Decision

Site visit made on 20 January 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH February 2025

Appeal Ref: APP/X2220/W/24/3345064

Land next to No 95 St George's Road, Sandwich, Kent CT13 9LE

- 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 Sir Roger Manwood's School against the decision of Dover District Council.
 - The application Ref is 22/01341.
 - The development proposed is a detached house, formation of new access and associated landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Sir Roger Manwood's School against Dover District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the heading above has been taken from the application form. In Part E of the appeal form it is stated that the description of development has changed. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application form.
4. On 16 October 2024, the Council adopted the Dover District Local Plan 2024 (DLP), which supersedes the Core Strategy 2010 and now forms part of the statutory development plan. Policies CP7 and DM25, as referred to on the decision notice, are therefore no longer relevant. Policies SP14, PM5 and NE3 of the DLP are, however, relevant and the appellant has had an opportunity to comment on these.
5. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and is a material consideration in planning decisions. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by taking this approach.
6. A signed Unilateral Undertaking dated 23 January 2025 has been submitted during the appeal process. This would secure a financial contribution to mitigate the effect of the development on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The Council considers the legal agreement addresses its third reason

for refusal and has advised that that reason for refusal is no longer contested. The appeal will be determined on this basis, and I shall return to the legal agreement later in my decision.

Main Issues

7. The main issues are the effect of the proposed development on:

- open space; and
- the effect of the proposed development on the integrity of the Thanet Coast and Sandwich Bay SPA.

Reasons

Open Space

8. The appeal site is part of the grounds of Sir Roger Manwood's School and is adjacent to a row of two-storey dwellings. The site includes trees that form part of a wooded area that extends to the side and rear of the site. The parties agree that the site is within a designated open space, which includes the playing fields of the school. The site is located within the settlement confines of Sandwich.
9. The proposal is for a detached two-storey dwelling accessed from St George's Road. The development would result in the additional removal of trees and the loss of the site as open space. Policy PM5 of the DLP states that development proposals that involve the whole or partial loss of open space within settlements will not be supported unless any replacement facility (or enhancement of the remainder of the existing site) provides a net benefit to the community in terms of the quantity, quality, availability and accessibility of open space or sport and recreational opportunities.
10. The proposal would result in the partial loss of open space, comprising a section of the larger wooded area that is not accessible to members of the general public. The development, through the use of funds received from the sale of the site would allow for the appellant to invest in the school's sports facilities. The investment included the construction of an artificial sports pitch, which has been completed through the use of finances earmarked for other projects. Subsequently, the appellant states that the funds would instead be used to assist in financing the construction of a sports pavilion, which has been granted planning permission. The pavilion, in addition to the artificial pitch, would enhance the school's sporting facilities and would allow access for the local community to use the improved provision.
11. The new sporting facilities would have different characteristics than the open space at the site, in terms of its quantity, quality, availability and accessibility. Whilst on a separate site, the facilities would be of a high quality and would allow for community access and use of the facilities. Given the scale and quality of the facilities and accessibility for members of the public, there would be a benefit to the community. Nonetheless, there is no legal mechanism before me that would secure the funds from the sale of the site to solely deliver the sports facilities, including the construction of the pavilion. Therefore, I cannot be certain that the funds generated from the proposed development would be used only for the enhancement of the sports facilities. Consequently, the proposal would not accord with the requirements of Policy PM5.

12. The site contributes positively to the verdant character of the wider open space, primarily through its connection to the wooded area to the side of the site extending along part of the school's boundary with St George's Road. The contribution made by the site to the open space and the surrounding wooded area is limited given the small size of the land and given the current condition of the site. Consequently, the proposal would not have an unacceptable effect on the integrity of the network of green infrastructure. Therefore, subject to conditions securing biodiversity enhancements and the recommendations set out in the Preliminary Ecological Appraisal¹, the proposal would accord with Policy SP14 of the DLP.
13. I conclude that the proposal would result in an unacceptable loss of open space. The development therefore conflicts with Policy PM5 of the DLP as set out above.

Thanet Coast and Sandwich Bay SPA

14. The appeal site lies within the zone of influence of the Thanet Coast and Sandwich Bay SPA, which is designated for its nature conservation importance and its use by large numbers of migratory birds. Of particular importance are over-wintering Turnstone, European Golden Plovers and breeding Little Terns. The Conservation of Habitats and Species Regulations 2017 requires me as the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects, on the integrity of the sites.
15. It has been established that residential development within the zone of influence would likely result in harm to the protected area through additional recreational disturbance. The proposal would create a net gain of dwellings and in combination with other developments permitted in the area there would be a likely significant effect on the integrity of the SPA. In these circumstances, Policy NE3 of the DLP states that all proposals for new residential development within a 9km Zone of Influence radius of the SPA will be required to make a financial contribution towards monitoring and mitigation measures.
16. The Planning Practice Guidance on Appropriate Assessment indicates that any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice. The appellant has submitted a signed UU, under Section 106 of the Town and Country Planning Act 1990 that would ensure a payment towards the mitigation strategy that is acceptable to the Council. Therefore, taking into consideration the submitted UU which would mitigate the proposed development, I conclude that the proposal would not have an adverse effect on the integrity of the SPA.
17. In this way harmful effects would be prevented. As a result, following an Appropriate Assessment, the proposals would not adversely affect the integrity of the SPA. There would therefore be no conflict with Policy NE3 of the DLP, as set out above.

Planning Balance

18. The proposed development would deliver a single dwelling, which would provide a boost to the supply of housing through the efficient use of land in an urban area. In

¹ Dated 6th April 2023, prepared by Calumma Ecological Services.

addition, the proposal would deliver social and economic benefits both during construction through the creation of jobs, and following occupation through the use of facilities and services in the settlement. However, the contribution of a single dwelling and the associated benefits are limited by the scale of development proposed.

19. The proposal would be of an appropriate design and would not harm the character and appearance of the area, including the significance of the Sandwich Walled Town Conservation Area. Nevertheless, I note that these elements are minimum requirements of planning policy and are therefore neutral in the planning balance.
20. Taking the stated benefits together, collectively there would be limited benefits associated with the appeal scheme. However, the harm that would result from conflict with the spatial strategy of the development plan would be of greater significance.

Conclusion

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

J Pearce

INSPECTOR