



Appeal Decision

Site visit made on 6 February 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2025

Appeal Ref: APP/J2210/W/24/3346914

Land Adjacent To Court Lodge, Manns Hill, Bossingham, Canterbury CT4 6EB

- 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 and Mrs Purchase against the decision of Canterbury City Council.
 - The application Ref is CA/23/02039.
 - The development proposed is described as 'Two-storey detached dwelling'.
-

Decision

1. The appeal is allowed and planning permission is granted for two-storey detached dwelling at Land Adjacent To Court Lodge, Manns Hill, Bossingham, Canterbury CT4 6EB in accordance with the terms of the application, Ref CA/23/02039, subject to the conditions set out in the schedule below.

Preliminary Matters

2. In the banner heading above I have used the description of development taken from the Council's decision notice and the appeal form, as opposed to the application form, as it more accurately describes that for which permission is sought.
3. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
4. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me, in determining this appeal, to have special regard to the desirability of preserving the listed building, or its setting, or any features of special architectural or historic interest which it possesses and also to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. Following the submission of the appellant's Statement of Case, the Council advise that the appeal site has been brought out of the catchment relating to the Stodmarsh Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site, following an update from Natural England. They no longer wish to defend the reason for refusal in relation to this matter. I therefore do not address this matter in the reasoning below.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, Court Lodge, and the extent to which it would preserve or enhance the character or appearance of the Bossingham Conservation Area (the CA).

Reasons

7. The appeal site is a parcel of open, green land adjacent to Court Lodge, a Grade II Listed Building (the LB). It is also located within the Bossingham CA, North Kent Downs Area of High Landscape Value (AHLV) and Kent Downs National Landscape (KDNL).
8. The List description confirms that the adjoining LB was listed in 1980. It is a two storey building comprising a Mediaeval hall-house with an eighteenth century exterior in red brick, set within a garden. From my observations on the site visit and the evidence before me, the significance of the LB is derived mostly from its age, architectural quality and its contribution to the rural character of the area. There is no disagreement between the parties that the proposal would be within the setting of the LB. Given the proximity of the proposal to the heritage asset, I see no reason to disagree.
9. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification.
10. The appellant's Heritage Statement indicates that historic, and now demolished, buildings on the appeal site were associated with the LB. However, the submitted evidence indicates that the appeal site has been in separate ownership to the LB since the mid 1980's. Although the appeal site historically formed part of the curtilage of the LB, it is now separated by a dense, tall hedgerow, and has a separate highway access. As a result of the growth of the hedgerow, the appeal site is largely hidden in views of the LB from Manns Hill. Therefore, there is limited functional or visual relationship between the LB and the appeal site, and I do not find that the appeal site makes an important contribution to the setting of the LB.
11. The proposal would retain the significant boundary landscaping between the appeal site and LB. Consequently, there would be limited intervisibility between the LB and the proposal. The LB is positioned forwards within its plot, close to the highway. In contrast, the proposed dwelling would have a significant set back from the highway so that its principal elevation would be further to the rear of the plot than the LB's rear elevation, and it would not be a prominent feature in views of the LB from Manns Hill. The height, roof form and footprint of the proposal would assist in limiting its overall height and massing, and it would be clearly subservient to, and well separated from, the LB. Given the above, I therefore conclude that the proposal would preserve the special interest and setting of the Grade II LB.
12. The CA covers the extent of the settlement of Bossingham, along the Street, Manns Hill and also out along Bossingham Street and Hardres Court Road. The

character of this part of the CA and its significance stems from the age and architectural interest of the historic development within the village of Bossingham along with agricultural development in the immediate surroundings and the area's pleasant rural landscape. With its open aspect allowing long views to the open fields to the rear, the appeal site positively contributes to the character of the area.

13. Views from the highway on Manns Hill constitute the main views of the appeal site in this part of the CA. The main parties agree that, when viewed in isolation, the design of the house is acceptable.
14. Development in this part of the CA is predominantly linear, albeit there are several examples of 'backland' forms of development, including nearby at Dene Farm to the south of the appeal site. The proposal would be set within a plot with a similar width to that of properties immediately to the south. Taking into account my observations at the site visit, I consider that the proposal would not deviate from the linear formation within the village as a whole.
15. However, the proposal would inevitably involve visual change at site level, primarily as a consequence of the introduction of built development into the open plot. This would interrupt and reduce the existing views from Manns Hill towards the countryside to the rear of the appeal site. As a consequence, the proposal would result in a limited erosion of the rural character of the CA. Nonetheless, this reduction in rural views to the rear of the appeal site, would cause harm to the character and appearance of the CA, as a whole.
16. The proposal would not extend across the width of the plot, and the existing track on the right hand side of the plot, when viewed from Manns Hill, would remain free from development, thereby retaining some views to the rear. There is also clear potential to enhance planting and landscaping around the boundaries and within the site which over time would soften the visual impact of the dwelling. Taking into account the above, I consider that the harm to the CA would be at the lower end of less than substantial harm.
17. To the rear of the site, the public rights of way (PROW) provide for views into the CA and from the PROW its linear and rural setting is appreciable. The proposed dwelling would be visible in these views, however as it would be centrally located within its plot, positioned away from the site boundaries, it would fit comfortably within the line of surrounding ribbon development. As such, the degree of change in long distance views from the rear of the site would be minor and not harmful to the CA.
18. However, for the reasons above, I conclude that the proposal would fail to preserve or enhance the character and appearance of the CA. Consequently, this would conflict with Policies DBE3, HE1, HE6 and HE8 of the Canterbury District Local Plan (2017) (CDLP). Collectively, the policies require development which is of a high quality design and which protect, conserve and enhance the historic environment, including conservations areas, and the contribution this makes to local distinctiveness and sense of place.
19. As I have found that the proposal would preserve the setting of the LB, there would be no conflict with Policy HE4 of the CDLP. The Council also alleges a conflict with Policies LB1 and LB2 of the CDLP with regard to this matter. However, the Council's reason for refusal relates to the effect of the proposal on heritage assets, and my attention has not been drawn to any words in Policies LB1 and LB2 that

are relevant to this issue. The policies have therefore not been determinative in my decision.

Other Matters

20. Since the appeal site is within the KDNL, great weight should be given to conserving and enhancing landscape and scenic beauty, as set out in paragraph 189 of the Framework. The Council does not suggest that the proposal would fail to conserve and enhance the KDNL. Taking account of the site's location amongst an existing line of dwellings within the distinct boundary between the built form of Bossingham and the open land beyond it, I find that the development would conserve and enhance the natural beauty of the KDNL.
21. I note that it is intended that the proposal is for an additional self-build house in an area where there is demand for such development. The Council is required to keep a register of those seeking to acquire serviced plots for self-build and custom housing in the area under the requirements of the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). The Act also requires Councils to give enough suitable development permissions to meet the identified demand for self-build and custom housing.
22. The Framework supports small sites to come forward for self-build and custom-build housing. The addition of a self-build dwelling on the appeal site would help to meet the demand for such housing in the area. However, at the application stage and as part of the appeal there was no planning obligation or other mechanism to secure some means of ensuring the proposal would be constructed for such use. There is therefore no mechanism to ensure that the proposal would be a self-build house. As such, I have to assess the proposal as market housing.

Heritage and Planning Balance

Heritage Balance

23. The harm to the CA as a whole would be less than substantial within the meaning of paragraph 215 of the Framework. As the proposal would result in a slight erosion of the rural character of the CA, the level of harm would be at the low end of less than substantial.
24. The Framework establishes that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset (in this case the CA), this harm should be weighed against the public benefits of the proposal. It also advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm.
25. The appellant indicates that the Council has failed to deliver under the Housing Delivery Test (HDT). The results of the HDT 2023 show that the Council has a delivery rate over the past 3 years of 67% of its requirement. In terms of the benefits, the scheme would provide a boost to housing, in an area where the Council is unable to demonstrate Framework compliant housing delivery. While a single dwelling is small in scale, it would nonetheless make an important contribution to the housing supply as indicated by paragraph 73 of the Framework. The Framework acknowledges that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are

often built out relatively quickly. Furthermore, the proposal would provide social and economic benefits during construction and in subsequent occupation. The appellant indicates the retention of areas of the site for wildflower and orchard planting, which could be secured through a landscaping condition, and which would have biodiversity benefits.

26. Taken together, these are positive benefits to which I afford very significant weight, particularly in light of the recent housing delivery. As such, the appeal scheme would comply with the historic environment conservation and enhancement policies of the Framework in so much as they provide the opportunity for any less than substantial harm identified to a designated heritage asset to be outweighed by the public benefits of a development proposal.

Planning Balance

27. The results of the HDT 2023 demonstrate that inadequate housing delivery has been persistent. In these circumstances, the provisions of paragraph 11(d) of the Framework are engaged.
28. For the reasons detailed earlier in this decision, I have found less than substantial harm to the CA and that this harm is outweighed by the public benefits. Therefore, there are no policies within the Framework, including those conserving and enhancing the historic environment, which would provide a clear reason for refusing the development.
29. I have also found that the proposal would preserve the setting of the LB and conserve and enhance the natural beauty of the KDNL. In these regards, the proposal does not conflict with the development plan.
30. When assessed against the policies in the Framework as a whole, I find that the proposed development would not cause any adverse impacts. Consequently, the adverse impacts would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

31. I have considered the proposed planning conditions that have been provided by the Council against the advice given in paragraph 57 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance (PPG). Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
32. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty. In the interests of character and appearance I have imposed the suggested conditions related to the use of external materials and requiring detailed drawings of key elements of the design. I have modified the wording of the conditions as the details are required prior to the commencement of works above ground. A condition related to the approval of hard and soft landscaping is also necessary in the interests of the character and appearance of the area.
33. I have imposed the Council's suggested condition related to an archaeological watching brief, to ensure that any features of archaeological interest are properly examined and recorded. I have included a condition requiring the provision and

retention of the site access and off-street parking in the interests of highway safety. A condition related to cycle parking is necessary to promote the use of sustainable modes of transport.

Conclusion

34. For the above reasons, and having had regard to all other matters, I conclude the appeal should be allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: Proposed Block Plan; Proposed Site Layout; Proposed New Dwelling (Elevations); Proposed New Dwelling (1st Floor Plan); Proposed New Dwelling (Ground Floor Plan); and Proposed New Dwelling (Roof Plan)
- 3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority. The works undertaken thereafter shall be in strict accordance with the details approved.
- 4) The development shall not progress above the damp proof course of the new house until details, including samples of the external facing materials and finishes, have been submitted to and approved in writing by the Local Planning Authority. The relevant works shall be carried out in accordance with the approved samples and details.
- 5) The development shall not progress above the damp proof course of the new house until details including cross-sections through glazing bars and frames, elevation, glazing, material, colour and finish at a scale of 1:10 of all new external windows and doors have been submitted to and approved in writing by the Local Planning Authority. The relevant works shall be carried out in accordance with the approved details.
- 6) The development shall not be occupied until an area for access, parking, and manoeuvring of vehicles has been provided on-site. The area shall thereafter be kept available for the access, parking and manoeuvring of vehicles.
- 7) The development shall not be occupied until details of secure cycle parking facilities have been submitted to and approved by the Local Planning Authority.

The secure cycle parking shall be installed prior to the occupation of the development and shall be maintained in an operable condition thereafter.

- 8) The development shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
- species, size and location of new trees, shrubs, hedges and grassed areas to be planted;
 - the treatment proposed for all hard surfaced areas beyond the limits of the highway; and
 - walls, fences and other means of enclosure proposed.

The landscaping shall be carried out in accordance with the approved details prior to the occupation of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives any written consent to any variation.

END OF SCHEDULE