



Appeal Decision

Site visit made on 5 June 2019

by **Rory MacLeod BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal Ref: APP/Z2260/W/19/3225218

Land to the rear of 177 College Road, Margate, Kent CT9 2SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Baldo Clifford Group Ltd against the decision of Thanet District Council.
- The application Ref F/TH/18/0729, dated 18 May 2018, was refused by notice dated 27 September 2018.
- The development proposed is 2 bungalows and two detached houses, together with associated access and landscaping etc.

Decision

1. The appeal is allowed and planning permission is granted for 2 bungalows and two detached houses, together with associated access and landscaping etc at land to the rear of 177 College Road, Margate, Kent CT9 2SJ in accordance with the terms of the application, Ref F/TH/18/0729, dated 18 May 2018, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, including on open land designated as a Green Wedge.

Reasons

3. The appeal relates to an irregularly shaped parcel of land to the rear of 177-193 College Road. It has historically been used by a water utility company but is now disused and overgrown. There is a narrow strip of land extending from the main site to the side of 177 College Road that would form a vehicular access to the proposed dwellings. Land levels rise gently from College Road towards the rear of the site. College Road is characterised by houses and flats fronting the road.
4. However, to the west of the site, there is open land with trees and a hedgerow fronting College Road to its junction with St Peter's Walk, where there is a school in open grounds. The open land extends to the rear of properties fronting St Peter's Walk and to the rear of dwellings fronting College Road to the east of the site where there are allotments. The open land forms part of a "Green Wedge", the essence of which is "*the maintenance of a permanent setting of open countryside around and between the Thanet towns*" according to Paragraph 10.53 of the Thanet Local Plan (2006) (TLP). Saved Policy CC5 of the TLP seeks to preclude development within the Green Wedges that is not appropriate to its purpose.

5. Only part of the appeal site is currently within the Green Wedge, but Policy SP21 of the Council's emerging local plan proposes to expand Green Wedge status to the whole site. Given the draft status of emerging plan policies, only limited weight can be afforded to this proposed change of designation.
6. Policy H1 of the TLP Saved Policies directs new residential development primarily to sites allocated for such purposes and thereafter, for non-allocated sites, only on previously developed land within the existing built-up area. Whilst the site is not allocated for housing, it is previously developed land and abuts the built-up area as well as the Green Wedge. Policy H1 pre-dates the National Planning Policy Framework (the Framework), is more restrictive and therefore not wholly compatible with the Framework's encouragement for residential development on sites suitable for this purpose. Sections 5 and 11 of the Framework promote the delivery of a sufficient supply of home and making effective use of land.
7. Policy D1 of the TLP sets out several design principles including that new development should respect or enhance the character or appearance of the surrounding area. Given the residential character of the adjacent area, albeit frontage development, and the unkempt appearance of this currently neglected site, the proposal would be broadly in compliance with this policy. The Council contends that the proposal would be contrary to Paragraphs 127 of the Framework relating to design principles, but apart from the backland siting it would otherwise be sympathetic to local character and accord with cited principles. The proposal would result in a visually attractive layout, establish a strong sense of place and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development.
8. The Council asserts that the site has a countryside location as it is located beyond the defined built-up area. But the site nonetheless is previously developed land that abuts the built-up area. The site is perceived as much as part of the built-up area as of the Green Wedge and does not protrude far into this open area. There would not be substantive conflict with Paragraph 170 of the Framework that requires planning decisions to contribute to and enhance the natural and local environment. Moreover, any harm to the countryside and to the Green Wedge needs to be balanced against the benefits of the proposal.

Other matters

9. The Council cannot currently demonstrate a five year housing land supply but is hopeful that this can be achieved shortly through allocations in the emerging local plan. Nonetheless, in these circumstances, Paragraph 11 of the Framework is triggered and there is a presumption in favour of sustainable development. The proposal would result in 4 additional dwellings in a sustainable location close to facilities in Margate. It would make a modest contribution towards addressing the present shortfall in local housing provision.
10. The proposal has addressed Council concerns relating to access arrangements and to ecology arising from an earlier application and would have a satisfactory relationship with adjacent dwellings so as not to adversely affect the living conditions of their occupiers. The limited harm resulting to the openness of the Green Wedge and arising from the backland nature of the proposal would not significantly and demonstrably outweigh the benefits arising from the proposal when assessed against the policies in the Framework taken as a whole.

Conclusion

11. The proposal would have a positive effect on the character and appearance of the area, and any adverse impact on open land designated as a Green Wedge would be outweighed by its benefits including in meeting housing need. For the reasons given, and having regard to all other matters raised, the appeal is allowed.
12. In addition to the statutory condition to limit the commencement period for the development, a condition is necessary to list the plan numbers in the interests of certainty and to enable submission of minor material amendments. A condition is also necessary to approve external materials to ensure a satisfactory appearance to the development. The Council has not provided specific reasoning for suggested withdrawal of a wide range of householder permitted development allowances; this would be contrary to the Government's advice in Planning Practice Guidance and is not warranted in the circumstances.
13. Pre-commencement conditions to investigate possible contamination, given the historic use of the site, and to approve drainage arrangements, as these would involve ground works ahead of development, are both clearly necessary. A pre-commencement condition to approve a Construction Method Statement is also necessary in the interests of highway safety and to safeguard the living conditions of nearby occupiers. The Council has suggested other highway related conditions concerning visibility splays, road gradients and the provision of the parking spaces and turning areas shown on the plans; these are necessary in the interests of the efficient operation of the site. Conditions to approve details of any external lighting and boundary enclosures are also necessary to ensure a satisfactory appearance to the site and to safeguard the living conditions of adjoining occupiers.

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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 hereby permitted shall be carried out in accordance with the following approved plans: 02A/23/2017, 03A/23/2017, 04A/23/2017, 05A/23/2017, 06A/23/2017, 07A/23/2017, 08A/23/2017, 09A/23/2017, 10A/23/2017 and 11A/23/2017.
- 3) Prior to the construction of the external surfaces of the development hereby permitted samples of the materials to be used shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- i) the parking and turning areas for construction and delivery vehicles and for site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 6) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the is occupied.

- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) No development shall take place until details of the means of foul and surface water drainage works shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) The development hereby permitted shall not be occupied until the access road, gradients, parking spaces and turning area shall have been constructed in accordance with details shown on submitted plan no. 02A/33/2017.
- 10) The development hereby permitted shall not be occupied until the approved visibility splays shall have been provided in accordance with details shown on submitted plan no. 11A/33/2017; the splays shall be maintained thereafter.
- 11) Details of any external lighting for the development including siting, illumination levels and spread of light shall be submitted to and approved in writing by the local planning authority before any of the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 12) Details of boundary fences, hedges and other means of enclosure shall be submitted to and approved in writing by the local planning authority before any of the buildings are occupied. Development shall be carried out in accordance with the approved details.