



Appeal Decision

Site visit made on 8 February 2024

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/J2210/W/23/3315735

Church of St Gabriel, Rough Common Road, Rough Common, Canterbury CT2 9DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Church of S. Michael and All Angels' against the decision of Canterbury City Council.
 - The application Ref CA/22/01294, dated 14 June 2022, was refused by notice dated 8 November 2022.
 - The development proposed is described as 'demolition of existing small chapel, to be replaced with a 3 bedrooms detached house'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved. I have considered the appeal on this basis and have treated any plans in relation to matters of access, appearance, landscaping, layout and scale as illustrative.
3. A Unilateral Undertaking, dated 20 October 2023, has been submitted with the appeal (the UU). This relates to the matter of effects on relevant habitat sites, and has been taken into account in the determination of the appeal.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2023 version of the Framework.

Main Issues

5. The main issues are:
 - the effects of the proposal on designated habitat sites;
 - the acceptability of the loss of the community facility;
 - the effects of the proposal on the character and appearance of the area;
 - whether the proposal would provide an acceptable standard of accommodation for future occupiers in terms of provision of outdoor space, and;
 - effects on highway safety arising from parking arrangements.

Reasons

Habitat Sites

6. The appeal site is close to the Stodmarsh Nature Reserve Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). This wetland site contains significant plant, bird and invertebrate interest of international and European importance, and is afforded protection under the Habitats Regulations¹. Natural England have identified that the water quality in its lakes has deteriorated and that this is linked to the discharge of wastewater into the Stour Valley river catchment area.
7. Given the location of the development, and as it would introduce overnight accommodation and a source of water pollution, there is therefore a pathway for the proposal to affect water quality within the Stodmarsh designated sites. It cannot be concluded that the proposal would not have a likely significant effect on the integrity of the sites.
8. The proposal itself does not include any mitigation for these effects and the appellant accepts the need to mitigate increases in nutrient loading from the new development. An offsetting payment to the Council's nutrient credit scheme is therefore proposed. The appellant acknowledges, however, that such a scheme is not yet established and the Council accept that it does not have any strategic mitigation scheme in place at this time to which the appellant could contribute. The UU does not give the amount of the payment and I appreciate that it could not do so without details of the extent of the contribution required to any mitigation scheme.
9. As such, there is no mitigation strategy nor strategic plan to mitigate the effects of the development. Nor is there any indication among the evidence of what these measures may entail or a timescale for their delivery. Given this position and the need for certainty on this matter, it would not be reasonable to condition the mitigation for resolution at a later date.
10. Overall, I am unable to rule out the possibility that the proposal, either alone or in combination with other projects, would have an adverse effect on the integrity of the protected sites. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted. The proposal would conflict with policies LB5 and LB6 of the Canterbury District Local Plan 2017 (the LP) which relate to the effects of development on Sites of International Conservation Importance and SSSIs, and the objectives of the Framework relating to habitat sites.
11. The appeal site is also close to the Thanet Coast and Sandwich Bay SPA and The Swale SPA, which are similarly designated habitat sites, protected for their importance to bird populations. Natural England have identified that recreational disturbance is a threat to the integrity of these areas. It is not apparent, based on the evidence, whether the appeal site lies within the zone of influence of those sites. However, the proposal would introduce new permanent accommodation close to these areas, and its occupants may visit those sites for recreational purposes. As such, adopting the necessary precautionary approach, likely significant effects on these sites cannot be ruled

¹ Conservation of Habitats and Species Regulations 2017 (as amended)

out. Notwithstanding the Council's case, the lack of the necessary certainty on this matter adds to my concerns and, based on the information before me, the proposal would also conflict with Policy SP6 of the LP, which relates specifically to these sites.

Loss of the Community Facility

12. Policy QL3 of the LP permits the loss of village and community facilities subject to criteria. While the policy itself does not specifically list places of worship, this is not a closed list. The supporting text to Policy QL3, and the Framework, make clear that community facilities include places of worship.
13. The premises has not been marketed and I appreciate the unique circumstances surrounding this use which would not facilitate this in the same way as other community facilities. However, the policy gives the option then to demonstrate there is no longer a continuing demand for the facility. Despite inconsistencies within the supporting documents, together they make clear that the church has been inactive for some time and that, even when it was operating, the congregation was very small and the services infrequent. I have no strong reason to doubt the appellant's claims. The characteristics of the building would also be likely to severely limit the continuing demand for the use, given it lacks some basic facilities. For these reasons the proposal would meet part a) of Policy QL3. The impact of the proposal on the rural character and community is not in dispute and the proposal can be considered to be compliant with Policy QL3 when read as a whole. I do not find conflict with the Framework insofar as it seeks to guard against the unnecessary loss of valued facilities, particularly where these would reduce the community's ability to meet its day-to-day needs, since these circumstances do not apply here.

Character and Appearance

14. Despite the supporting drawings, the appeal relates to an application which was made for outline permission with all matters reserved. Matters of the access, appearance, landscaping, layout and scale would all be submitted for consideration at a later date, under reserved matters applications.
15. The appeal site is small and irregular in its shape. In order to provide the three bedroom house proposed, the site layout and appearance of the development would inevitably be different to those plots and buildings in the immediate vicinity, which generally benefit from more generous plots. However, there is little consistency in building designs and in the size and layout of plots nearby and the surrounding area has a varied character and appearance. For this reason, even if the resulting development did appear different, this would not necessarily cause visual harm. On the basis of the evidence before me, it is likely that an appropriate solution could be reached at the reserved matters stage.
16. There is not substantive evidence relating to the merit of retaining the existing building nor any existing protections on it. It is a distinctive building which reflects the period and purpose for which it was created, and adds some visual interest to Rough Common Road. However, based on the information before me, I otherwise have no strong reason to contest its removal, particularly given its dilapidated appearance.

17. The proposal at this stage would not cause harm to the character and appearance of the area, and would comply with Policy DBE3 of the LP which relates to the need for high quality design as well as the design objectives of the Framework.

Living Conditions

18. LP Policy DBE4 states that outdoor space for private and/or communal use should be provided with all new housing. The supporting text to the policy reiterates that family houses should provide a private garden space suitable for family needs, which is relevant here as the description of development describes a house of three bedrooms.
19. Given the size of the site this is likely to be challenging. However, there is not sufficient evidence before me to demonstrate with certainty that a solution could not be achieved. As such, at this outline stage, I do not find conflict with Policy DBE4 nor the objectives of the Framework where it relates to healthy living conditions.

Highway Safety

20. Similarly, the details of any proposed parking arrangements and refuse storage would fall to be considered among the reserved matters for layout and appearance of the development. The appellant has demonstrated how the required level of parking could be achieved. While those details may not be satisfactory at this stage, it is likely that a solution could be achieved which would not prejudice highway safety. As such the proposal would not conflict with LP Policy T9 which requires regard to local parking standards, nor the Framework insofar as it relates to impacts on highway safety.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations including the Habitats Regulations, the appeal is dismissed.

C Shearing

INSPECTOR