
Appeal Decision

Site visits made on 19 and 20 January 2015

by Peter Rose BA MRTPI DMS MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 February 2015

Appeal Ref: APP/X2220/A/14/2217154

Land to the rear of Archer's Court Road, Whitfield, CT16 3HP

- 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 Suregold Ltd against the decision of Dover District Council.
 - The application Ref DOV/13/00360, dated 19 April 2013, was refused by notice dated 21 January 2014.
 - The development proposed is erection of up to 28 residential dwellings (including 30% affordable).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Suregold Ltd against Dover District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is for outline planning permission with access the only matter for which approval is sought. Appearance, landscaping, layout and scale all remain reserved.
4. A Unilateral Undertaking dated 25 June 2014 has been submitted by the appellant. The Undertaking has been available to the Council and I do not consider any interests would be prejudiced by having regard to the Undertaking as part of the appeal.

Main Issue

5. The main issue is the effect of the proposed development upon the local highway infrastructure and, in particular, whether there would be sufficient capacity to satisfactorily absorb the additional traffic movements generated by the development with particular reference to the Archer's Court Road/Sandwich Road junction.

Reasons

6. The appeal site comprises an overgrown area of woodland and informal open land set behind existing residential properties in Archer's Court Road. This part of Archer's Court Road is predominantly residential in use and characterised by relatively large properties served by off-street parking. The appeal site

includes the existing property at No 14 which would be demolished to accommodate access. A pedestrian public right of way crosses the site running from the entrance to Archer's Court Road through to Newlands to the east.

7. The site is bounded by the A2 to the south, and lies close to the junction with Sandwich Road. The junction, in turn, is adjacent to a busy roundabout which serves as an intersection between the A2, Sandwich Road and the A256. A public house is located at the junction of Archer's Court Road and Sandwich Road, and adjacent to other non-residential uses extending along Sandwich Road. The junction also faces towards a fast-food restaurant on the opposite side of Sandwich Road. Archer's Court Road appears to be a relatively busy local distributor road and accommodates a bus route.
8. The National Planning Policy Framework (the Framework) seeks to promote sustainable transport and advises that all developments which generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. In this regard, I note the scheme has been the subject of extensive pre-application discussions with the local planning and highway authorities and that the submitted Transport Assessment was scoped in conjunction with the highway authority.
9. The submitted evidence includes two traffic surveys undertaken on separate days in November 2012, one between 08.00 and 09.00 hours, and one between 17.00 and 18.00 hours. The appellant acknowledges that queues of traffic formed at the Archer's Court Road/Sandwich Road junction, but found these to be sporadic and that they dispersed with relative ease. The appellant's subsequent assessment was that delays in queuing at the Archer's Court Road/Sandwich Road junction were minimal and that dispersal was aided by the existing 'Keep Clear' markings.
10. The appellant forecasts that the number of additional vehicles generated by the scheme would represent only a small percentage of existing traffic. I note that the assessment presented also assumes that all traffic from the development would travel towards the junction, and that no allowance was made for any possible lower levels of car usage which may be attributed to the proposed element of affordable housing, although little evidence is before me to that effect.
11. Notwithstanding the evidence presented, I inspected the site on two separate occasions and at contrasting times, one during mid-afternoon, the other during a morning rush-hour. Whilst I did not notice any specific traffic-related problems in the afternoon, I did observe considerable congestion in Archer's Court Road at its junction with Sandwich Road during the morning rush hour. It remains to be seen how representative my observations were but, by the same token, I also note that the extent of the appellant's survey is limited to two separate one-hour periods dating from November 2012, and outside the period of the afternoon school-run.
12. I have also received a significant range of representations from local residents citing transport-related concerns. These include general issues of access and congestion. Notwithstanding evidence of submitted accident figures and the presence of waiting restrictions in the immediate vicinity of the junction, reference is also made to dangers associated with on-street parking and its implications for traffic and sight-lines in the vicinity. From the impression

drawn at my site inspections, I find it reasonable to afford these general concerns and accompanying evidence significant weight.

13. I note the site lies within the urban confines of Whitfield, as defined in the Council's Core Strategy Proposals Map, but outside the Whitfield Urban Expansion Area. The Council's Whitfield Supplementary Planning Document 2011 acknowledges peak-time queuing in Archer's Court Road and advises that any proposals that lead to further traffic on this road would need particularly careful assessment.
14. The Council advises that no additional traffic would be generated onto Archer's Court Road by Phase 1 of the Expansion. Whilst reference is made in the Council's Committee report to the possible benefits of a bus gate in connection with Phase 1, the full and detailed implications for wider traffic movement in the area and how and when that would be achieved are not before me. The Council also indicates that later phases of the Expansion would be accompanied by improvements to the Whitfield roundabout.
15. Nevertheless, the Traffic Assessment would not appear to refer specifically to the possible implications for the junction of further traffic arising from development of Phase 1A of the Expansion. This would involve some 74 residential units and there is understandable concern that existing problems at the junction would be exacerbated once additional traffic enters Sandwich Road.
16. Policy DM 11 of the Council's Core Strategy 2010 requires development generating high levels of travel to be served by a range of means of transport and I note the appellant's contention that the site is a highly sustainable location. I accept the site would be well located for occupants to walk to various local services and this would help to minimise future car-based travel. Even so, significant car use would still be likely. Whilst Archer's Court Road is a bus route and further buses run along Sandwich Road, car-based travel would still be required for other journeys and the site is also a significant distance from a railway station.
17. In summary, I find the scheme would involve a substantial number of additional units and, in the context of the constraints of the existing highway network, a significant increase in vehicle generation onto a road and adjacent junction already experiencing considerable traffic congestion and associated problems. In all these circumstances, I find, on the balance of the evidence before me, that the transport impacts of the additional development would be severe.
18. I therefore conclude that the proposed development would be harmful to the local highway infrastructure and, in particular, that there would be insufficient capacity to satisfactorily absorb the additional traffic movements generated by the development with particular reference to the Archer's Court Road/Sandwich Road junction. Accordingly, the development would be contrary to the Framework which seeks, amongst other matters, to ensure that safe and suitable access to a development site can be achieved for all people, and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Other Matters

19. The submitted Undertaking sets out commitments in relation to various matters, including the nearby Special Protection Area, primary education facilities, and libraries. Nonetheless, the appeal is to be dismissed on its substantive merits with reference to the main issue which is not directly related to the terms of the Undertaking. Accordingly, it is not necessary for me to examine the Undertaking given that the proposal is unacceptable for other reasons.
20. Although the proposal includes a significant contribution of affordable housing, the principle of its provision is not accommodated through the Undertaking. Rather, it is proposed to be addressed by way of a planning condition. A form of wording is set out in the Council's suggested list of conditions and this appears not to be disputed by the appellant. Notwithstanding the intention, I am concerned that the proposed condition would fall significantly short of the expectations of the government's Planning Practice Guidance (the Guidance). In particular, the Guidance sets out a number of tests against which to assess whether such a condition would be fit for purpose. As proposed, the condition would lack precision in relation to its requirements, would fail to establish a clear relationship to any otherwise approved scheme, and would be likely to give rise to serious questions of enforceability.
21. Accordingly, whilst I recognise that, in principle, the proposed affordable housing would be a significant benefit of the scheme, I am unable to afford it corresponding weight in this instance given the absence of an appropriate delivery mechanism.
22. I have also noted that the Council is unable to demonstrate a 5-year housing land supply and that the proposed scheme would contribute significantly in that regard.
23. The Council raises no objection to the loss of the existing designated open space concluding that, given the existing condition of the land, the scheme would instead provide a well-managed area of enhanced green open space. Similarly, the Council raises no objections to implications for existing trees. Insofar as these matters are relevant to the defined terms of the application, I have little reason to disagree.
24. I have noted all other matters raised, including implications for local living conditions of adjacent residents, particularly noise and outlook, possible disruption caused by construction works, living conditions of future residents, and implications for the character and appearance of the site, for wildlife, utilities services and archaeology. These are not raised as objections by the Council and, only insofar as relevant to the defined terms of the application, I have little reason to disagree.
25. A representation is also made on behalf of an adjacent landowner in relation to existing rights of access. The representation requests that a condition be imposed to safeguard access in the event that the appeal is allowed. Given my assessment of the main issue, further consideration as part of the appeal is not required.

26. None of the other matters raised are of such significance, either individually or collectively, that they would outweigh the considerations that have led to my conclusions on the main issue.

Conclusion

27. At the heart of the Framework is a presumption in favour of sustainable development. For decision-making, this means approving proposals that accord with the development plan without delay, and I am not satisfied that the proposed development would comply with this expectation.

28. For the above reasons, I conclude the appeal should be dismissed.

Peter Rose

INSPECTOR

Richborough Estates