



Appeal Decision

Site visit made on 2 February 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Appeal Ref: APP/J2210/W/20/3251948

Canterbury Student Manor, Parham Road, Canterbury CT1 1GA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Graduate Two Ltd against the decision of Canterbury City Council.
 - The application Ref 19/01177, dated 11 June 2019, was refused by notice dated 23 December 2019.
 - The application sought planning permission for the erection of five blocks of student accommodation (297 beds) comprising 60 cluster flats and 65 studio apartments with communal facilities, parking and cycle storage without complying with conditions attached to planning permission Ref CA/15/01938/VAR, dated 15 January 2016.
 - The conditions in dispute are Nos 11 and 12 which state that:
 - 11) *Before the first occupation of the development hereby permitted a Travel Plan for the Halls of Residence shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall identify a range of measures to improve access from the Halls of Residence to other university sites for staff and students other than by resorting to private motor vehicle trips. And also for the phasing of student arrivals at the start and departures at the end of each term. Upon first occupation of the buildings hereby approved the package of measures identified in the approved Travel Plan shall be put into effect and thereafter operated. Within twelve months of their introduction of the travel plan procedures for the regular review of the effectiveness of the travel plan shall be agreed in writing with the Local Planning Authority. Thereafter the measures identified in the review for the adaptation of the approved Travel Plan shall be introduced within an agreed timetable and operated and further reviewed in accordance with the agreed monitoring and review process and timetable.*
 - 12) *Occupation of the residential accommodation hereby permitted shall be limited to students registered with and pursuing a course of full time educational study, including graduate and post-graduate study, at any institute, college or university within the City of Canterbury; such occupation shall be deemed to include any guest, partner or dependent of a student satisfying the above criteria and temporarily resident in the same unit of residential accommodation at the same time as the occupying student. Details of the management of the accommodation and a direct means of contact for local residents and public services shall be permanently displayed at the entrance to each block.*
 - The reasons given for the conditions are:
 - 11) *In the interests of providing sustainable transport options and due to the limited parking provided for the development.*
 - 12) *Due to the limited parking available for the occupants, to provide a point of contact for the management of the facility and to ensure the accommodation remains available for the use expressed in the application.*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Graduate Two Ltd against Canterbury City Council. This application is the subject of a separate decision.

Background and Procedural Matters

3. The applicant's name differs across the submission documents. Evidence has since been provided which confirms that the appeal is proceeding in the name of the company specified on the application form. The appeal is therefore being pursued by the original applicant and thus is valid.
4. Planning permission was granted under reference CA/15/01938/VAR for student accommodation at the site, subject to condition Nos 11 and 12. These require the approval and implementation of measures within a travel plan and limit the occupation of the accommodation to students and their guests, partners and dependents. A travel plan was subsequently approved pursuant to that permission. The appeal proposal seeks consent for the accommodation to be used by both students and non-students outside term time and the approval of a travel plan that intends to reflect the proposed terms of occupation. The Council contends that the proposal would encourage increased vehicle movements and therefore constitute an unsustainable form of development.
5. During the appeal process, the Council submitted an advice note¹ from Natural England on the potential effects of development on the Stour catchment. This includes Stodmarsh, which is a Special Protection Area, a Special Area of Conservation, a Ramsar site, a Site of Special Scientific Interest and partially a National Nature Reserve (Habitats Sites). The proposal is within the catchment.

Main Issues

6. Having regard to the submitted evidence, I consider that the main issues are:
 - the effects of the proposal on the integrity of the Habitats Sites; and
 - whether the proposal represents a sustainable form of development with regard to the site's location, vehicle movements and parking provision.

Reasons

Habitats Sites

7. The Habitats Sites feature a range of wetland habitats including standing open water and have several overlapping qualifying features. The habitats support many species of breeding, non-breeding and wintering birds, such as the hen harrier and great bittern. Assemblages of invertebrates and a sizeable population of Desmoulin's whorl snail are also present, with the latter being highly dependent on the maintenance of existing local hydrological conditions.
8. The Conservation Objectives for the Special Protection Area, Special Area of Conservation and Ramsar site are to ensure that their integrity is maintained or

¹ Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites

- restored, principally by maintaining or restoring their habitats and qualifying features. Some of the water bodies are in unfavourable condition. Maintaining water quality is expressly included in the supplementary advice to the Conservation Objectives.
9. The Natural England advice note explains that there are high levels of nitrogen and phosphorus input into the Stodmarsh water environment and that evidence indicates that these nutrients are leading to eutrophication of parts of the Habitats Sites. It sets out that likely significant effects on the Habitats Sites in terms of water quality cannot be ruled out from new development, which includes tourism development, due to increases in nutrient loading from wastewater. No objective evidence indicating otherwise has been provided. Adopting a precautionary approach, likely significant effects on the Habitats Sites cannot be excluded. I have thus consulted Natural England on the proposal and had regard to the representations it has submitted as required by the Habitats Regulations².
 10. The site includes 5 blocks of residential accommodation to the east of Canterbury's city centre. It includes a high number of units such that it can be occupied by many people. There are no restrictions preventing students from residing at the accommodation throughout the entirety of the year.
 11. The appellant has explained that student tenancy periods of 44 and 51 weeks are offered. It is argued that the accommodation is currently able to be occupied continuously at maximum capacity both in theory and in practice and thus the proposal would not make a material difference on the intensity of the use of the building in terms of occupancy. However, firm and substantive evidence on this has not been provided. Moreover, the appellant's statement sets out that most of the units currently remain unoccupied between July and September and there have been difficulties letting the accommodation to students during these months. Additionally, the appellant identifies that Canterbury is a tourist destination, with peak season outside term time.
 12. Whilst the accommodation is currently usable throughout the year by students, it is highly likely that more people would occupy the accommodation in total each year if both students and tourists, or other visitors with no association with the students, could reside there.
 13. Having regard to the representation from Natural England and its advice note, I consider that an increase in occupiers would generate additional wastewater discharge. This is likely to lead to increased nutrient loads into the catchment. In the absence of any proposed mitigation measures, this would negatively impact water quality and thus also the habitats and qualifying features of the Habitats Sites. Whilst a unilateral undertaking (UU) has been submitted, it relates to parking matters and does not seek to provide mitigation for the Habitats Sites. Therefore, I am not satisfied that there would be no adverse effects on the integrity of the Habitats Sites. In such circumstances the Habitats Regulations indicate that permission should be refused.
 14. I have not been directed to any specific development plan conflicts in respect of this matter. However, based on the evidence provided, the proposal conflicts with Policy DBE1 of the Canterbury District Local Plan (LP), which seeks to protect and enhance the environment. In addition, paragraph 177 of the

² Conservation of Habitats and Species Regulations 2017

National Planning Policy Framework (the Framework) sets out that the presumption in favour of sustainable development does not apply where plans or projects adversely affect the integrity of habitats sites.

Sustainable form of development

15. The appellant explains that the accommodation was designed as a 'car-free' scheme, with the 20 parking spaces within the site used by visitors, staff and maintenance operatives only. There are 135 cycle spaces for the occupiers of the site. Pedestrian and cycle routes run adjacent to the site and a bus stop served by several bus routes is nearby.
16. Based on the evidence and my observations from when I visited, the accommodation is within walking and cycling distance of the city centre and bus and rail services. Potential occupiers would thus be able to travel to and from the accommodation without reliance on private motor vehicles. In addition, many of the roads in the immediate area feature parking restrictions. Opportunities for parking are therefore limited. This would likely deter the occupiers from bringing private motor vehicles to the site.
17. Compelling evidence has not been provided which indicates that there are existing parking or traffic congestion problems in the area or that the effects on the highway network would be severe. In addition, objective evidence has not been advanced which indicates that non-students would give rise to greater transport impacts than students.
18. Furthermore, the travel plan includes measures that would encourage people to move to and from the site by modes of transport other than private motor vehicles. The Highway Authority has not objected subject to non-students being notified that the development is car-free. The travel plan includes that measure.
19. The Council contends that there would be no effective way of restricting potential guests from bringing private motor vehicles to the city. However, the Council found that a travel plan would be effective in relation to the original application and no convincing evidence has been presented which suggests that a travel plan would not be appropriate for non-students. In addition, LP Policy T17 identifies that travel plans encourage sustainable travel. Moreover, the measures within the approved and proposed travel plans are similar.
20. The proposal represents a sustainable form of development in terms of the site's location, vehicle movements and parking provision. It accords with LP Policy T1, which seeks to control the level and environmental impacts of vehicular traffic and promote sustainable modes of transport. Additionally, there is no conflict with LP Policy SP1, which explains the Council's approach to decision making and echoes the presumption in favour of sustainable development as set out in the Framework.

Other Matters

21. The appellant contends that the proposal would make best and most efficient use of the site, contribute to the cultural and visitor economy and assist in supporting demand for overnight visitor accommodation. Furthermore, I have already identified that the site is in an accessible location. However, these matters do not outweigh my findings in respect of the effects of the proposal on the integrity of the Habitats Sites.

22. It is also identified that a financial contribution towards off-site highway, cycleway and pedestrian improvements was secured in association with the planning permission. However, that contribution is not directly related to this proposal and thus is not a relevant consideration for the appeal.
23. I am dismissing the appeal because of my findings in respect of the Habitats Sites. Consequently, I have not considered the UU any further as doing so would have no bearing on the outcome of the appeal.

Conclusion

24. The proposal is contrary to the development plan taken as a whole. The material considerations identified do not outweigh the proposal's conflict with the development plan.
25. For the above reasons the appeal is dismissed.

Mark Philpott

INSPECTOR