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## Appeal Decision

Site visit made on 14 September 2016

**by D J Board BSc (Hons) MA MRTPI**

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

**Decision date: 7 October 2016**

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**Appeal Ref: APP/A2280/W/16/3151179**  
**72 City Way, Medway, Rochester, ME1 2AE**

- 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 Mr Pierre Bestel against the decision of The Medway Council.
  - The application Ref MC/15/3014, dated 21 August 2015, was refused by notice dated 25 November 2015.
  - The development proposed is new dwelling with associated parking and garden.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposal on the character and appearance of the area; and
  - Whether the proposal would be likely to have a significant effect on the nearby Special Protection Area (SPA).

### Reasons

#### *Character and appearance*

3. The Council's policies allow for residential infill development in principle. However, this is subject to the detailed aspects of the scheme being appropriate and that '*...a clear improvement in the local environment will result...*'.
  4. I understand from the submissions that City Way is characterised by housing with deep gardens and that the areas to the rear have been developed over time. The site would be formed from the end of the garden of No 72 which tapers away toward Howard Avenue. It would have a frontage to Howard Avenue where there are both detached and semi-detached dwellings with a prevailing suburban character. I note that the plot sizes do vary. Nevertheless the plot of the appeal scheme would be substantially narrower than those around it. In particular the group of detached and semi-detached properties on the east side of Howard Avenue.
  5. The appellant submits that the scheme would represent a high quality contemporary design, providing good quality accommodation that would be suitable for a wide demographic. In addition it is noted that the immediate locality is varied in architectural approach. Nevertheless, due to the constraints of the plot and its tapered shape the new dwelling would be narrow
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and deep and positioned close to the plot boundaries. This would be in contrast to majority of dwellings in the immediate locality. Therefore whilst the design could be well executed with provision of a garden and parking this would not alter the constraints of the site and consequent proximity of the dwelling to the plot boundaries. Overall, I consider that this resultant relationship would be out of character with the overwhelming suburban character of Howard Avenue. In this regard it would not represent a clear improvement to the local environment.

6. I therefore conclude that the proposal would harm the character and appearance of the area. It would be in conflict with policies BNE1 and H4 of the Medway Local Plan (LP). It would also be in conflict with the National Planning Policy Framework (the Framework) which is clear that decisions should not stifle innovation but also seeks to promote or reinforce local distinctiveness.

#### *Impact on SPA*

7. The site is located within 6km of the North Kent Marshes SPA areas. The Council's second reason for refusal was that, in the absence of a completed legal agreement necessary to secure the implementation of mitigation measures, it could not be assured that the proposal, either on its own or in combination with other plans and projects would not adversely affect the European designated habitats. The concern relates to recreational disturbance related to residents making leisure trips to the SPA. This concern is shared by Natural England.
8. Whilst I appreciate that the appellant has indicated that he would agree to contributions towards the mitigation of any harmful impacts arising from the development there is no mechanism before me by which this would be ensured. Consequently, I cannot be satisfied that there would be adequate measures to avoid or mitigate potential adverse effects from recreational use of the SPA by future residents. Therefore the proposal would be in conflict with LP policy BNE35 and paragraph 118 of the Framework which seek to resist development that would have an adverse impact on protected species or their habitats and seek to use planning obligations to provide appropriate mitigation and compensatory measures.

#### *Other matters*

9. The appellant refers to 'precedents' regarding the scheme design. However, none of the schemes are directly comparable being for more units in each case. Therefore I attribute them very little weight.
10. The appellant submits that a dwelling on the site would contribute to the delivery of housing in a sustainable location and make use of a brownfield site in an urban location. However, these matters do not outweigh the harm identified against the main issues.

#### **Conclusion**

11. For the reasons given and having regard to all other matters raised the appeal is dismissed.

*D J Board*

INSPECTOR