
Appeal Decision

Site visit made on 6 January 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 23 February 2017

Appeal Ref: APP/J2210/W/16/3157339
30 Fitzroy Road, Whitstable, Kent CT5 2LG

- 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 Mrs P Howard against the decision of Canterbury City Council.
 - The application Ref CA/16/00216/FUL, dated 27 January 2016, was refused by notice dated 12 April 2016.
 - The development proposed is the demolition of conservatory and garage and erection of detached dwelling on land adjoining 30 Fitzroy Road.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of conservatory and garage and erection of detached dwelling on land adjoining 30 Fitzroy Road, Whitstable, Kent CT5 2LG in accordance with the terms of the application, Ref CA/16/00216/FUL dated 27 January 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. A unilateral undertaking was submitted by the appellant, to provide a financial contribution to mitigate the impact on the Thanet Coast and Sandwich Bay and Thames, Medway and Swale Special Protection Areas (SPAs). I deal with this in more detail below.
3. A street elevation drawing¹ was provided with the appeal, which shows the proposed dwelling in relation to No 28 and No 32 Fitzroy Road as well as its immediate relationship with No 30, the host property, and no alterations to the proposed dwelling are proposed. As such I do not consider anyone would be prejudiced by my consideration of the appeal with reference to the aforementioned drawing.
4. The Council has referred to policies in the Canterbury District Local Plan Publication Draft (2014). As this has not been formally adopted, I can give these policies only moderate weight in determining the appeal, but in any case, they do not diverge significantly in content from the policies in the Canterbury District Local Plan (LP) (2006) referred to on the Decision Notice.

Main Issues

5. The main issues in the appeal are the effect of the proposal on the character and appearance of the surrounding area, and on the Thanet Coast and

¹ Drawing Ref. 549/04

Sandwich Bay and Thames, Medway and Swale Special Protection Areas (SPAs).

Reasons

Character and appearance

6. The appeal site comprises No 30 Fitzroy Road, a semi-detached chalet bungalow, and land to the side currently occupied by a detached garage. No 32, the adjoining semi-detached bungalow is located on the corner of Fitzroy Road and Northwood Road, and the western boundary of the appeal site abuts the rear garden of No 59 Northwood Road.
7. The Council's *Guidelines to Control Residential Intensification Supplementary Planning Document* (SPD) (2008) seek to protect the character and identity of localities in the District outside conservation areas from inappropriate development. The SPD at Appendix 1 describes three types of intensification; backland, tandem and infill. As the proposed dwelling would not be set behind No 30 and would maintain a frontage to the street, it falls within the category of infill development. The SPD states that this type of development is preferred, as it would be more easily assimilated into the street scene.
8. The Council considers that there is a clear transition from two storey dwellings to single storey dwellings where the application site is situated, but there are other single storey dwellings further along the western side of Fitzroy Road, and thus the road is relatively mixed in character. The proposed detached house would be taller in height than the adjacent bungalows at Nos 30 and 32 but would have a lower ridge and eaves height than the two storey No 28, and other two storey properties on the street. In this way the proposal would provide an effective transition between the differing heights of the adjacent properties.
9. The semi-detached bungalows in the street are characterised by their width. Although the proposed dwelling would be much narrower than the adjacent bungalows, it would not be significantly narrower than the two storey properties on Fitzroy Road, including No 28. The development would maintain the established building line and depth of frontage along Fitzroy Road, and whilst the property would have a greater depth than the neighbouring properties on either side, it would not be particularly prominent as it would be set well back from Northwood Road. As a result, it would not be significantly out of character with the pattern and grain of development in the area.
10. There would be about 1m separation on either side of the appeal dwelling, and the gap between the dwelling and the common boundary with No 28 would be slightly greater than at present. Moreover, the host property has a single storey side extension and brick wall linking the main dwelling and the garage. As a result of the development there would be greater separation between No 30 and the proposed dwelling due to the removal of the side projection and wall.
11. Most properties on Fitzroy Road have approximately 2 metres separation to the side boundaries. However, there are detached bungalows on Northwood Road, close to the appeal site at Nos 63 and 65 Northwood Road which have a 1 metre gap on either side between the flank walls and the common boundaries. Whilst there are more spacious gaps between properties on Fitzroy Road, given

the proximity of other examples with narrower gaps, the appeal proposal would not be incongruous in the street scene. Finally, the area of hardstanding proposed in front of the dwelling for car parking would be no greater than that existing.

12. Taking all of the above into account, the proposal would not harm the character and appearance of the surrounding area, and would comply with LP Policy BE1 which states that the Council will have regard to, amongst other things, the form of new development including the efficient use of land, layout, landscape, density and mix, scale, massing, materials, finish and architectural details, and will consider the visual impact on development including on townscape character. It would also accord with the *Guidelines to Control Residential Intensification SPD*.

Effect on Special Protection Areas (SPAs)

13. The second reason for refusal stated that the development would fail to secure the delivery of necessary measures to mitigate the impacts of proposed development on the North Kent Marshes SPA² (albeit the Council's officer report and appeal statement refer specifically to the Swale SPA which lies partly within the local authority area) and the Thanet Coast and Sandwich Bay SPA. Surveys of these areas indicate a recognised decline in key bird species, and there is a risk of further decline arising from new housing development that would lead to an increase in recreational visits by future occupiers to the coast.
14. The appeal site lies within the area of influence of these SPAs. The occupiers of the proposed dwelling would therefore be likely to place additional recreational demands on the SPAs, for which mitigation is required by LP Policy NE1. The Council has prepared Strategic Access, Management and Monitoring Strategies (SAMMs) for each SPA³ which set out the required mitigation measures, including wardening, increased education, ongoing monitoring and surveys and access management where appropriate. As such the mitigation sought by the Council is necessary in order to make the development acceptable.
15. A unilateral undertaking (UU) has been submitted, agreeing to provide a financial contribution toward the SAMMs, and the Council has indicated the provisions of the UU would overcome the second reason for refusal. As the funds would be directed toward wardening, monitoring and management of the recreational impacts on the SPAs and not for infrastructure, I consider the tests in the Community Infrastructure Levy Regulations 2010 (as amended), including pooling restrictions on infrastructure provision, and the Framework would be met in relation to the UU.
16. In addition the Council suggests that a condition preventing the dwelling from being occupied prior to the SPA mitigation being carried out would also be necessary, but the contribution would be spent in accordance with the SAMMs as directed by the Council and its partners. Consequently implementation would be outside the control of the appellant. For this reason, and as the

² The Thames Estuary and Marshes, Medway Estuary and Marshes and Swale SPAs are collectively known as the North Kent Marshes Special Protection Areas

³ Thames, Medway and Swale Strategic Access, Management and Monitoring Strategy (Footprint Ecology) (2014) and Canterbury Section of the Thanet Coast and Sandwich Bay Strategic Access, Management and Monitoring Strategy (V Hyland Associates Ltd and Blackwood Bayre Ltd) (2014)

appellant has already committed to fund mitigation through the UU, I consider that the proposed condition would be unreasonable and I shall not impose it.

17. I conclude that the proposal would not have an adverse effect on the Special Protection Areas, and would accord with LP Policy NE1.

Conclusion

18. I have found that the development would be acceptable subject to certain conditions. I have specified the approved plans for certainty. I shall also require details of the external materials and site levels to safeguard the character and appearance of the area.
19. I have imposed conditions requiring the car parking to be laid out prior to first occupation of the dwelling and retained as such thereafter in the interests of highway safety, and the provision of cycle parking to encourage more sustainable pattern of travel, in accordance with LP Policy C9.
20. Whilst restrictions on householder permitted development rights should only be imposed in exceptional circumstances, due to the infill nature of the development a condition is justified in this instance. Details of foul and surface water drainage are also required to ensure adequate drainage and to prevent surface water run-off beyond the site.
21. For the reasons set out above I conclude the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Drawing 549/01 Rev A - Existing Plans and Elevations; Drawing 549/03 Rev A - Proposed Sketch Plans, Sections and Elevation; Drawing 549/04 - Street Elevation.
- 3) Prior to the commencement of the development hereby approved samples or details of the materials to be used in the construction of the external surfaces of the development hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the means of foul and surface water disposal, including a detailed sustainable surface water drainage scheme for the site have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be compliant with the non-statutory technical standards for sustainable drainage; shall demonstrate the surface water run off generated up to and including the 100yr critical storm (including allowance for climate change) will not exceed the run off from the undeveloped site following the corresponding rainfall event, and so as not to increase the risk of flooding both on- or off-site; shall include details for the long term maintenance of all surface water drainage infrastructure on site; and include the provision of measures to prevent the discharge of surface water onto the highway. The development shall be carried out in accordance with the approved details and maintained as such thereafter.
- 5) Prior to the first occupation or use of the development, the area shown on the deposited plans for the parking and manoeuvring of vehicles shall be operational, and constructed of a bound surface, and shall be retained as such thereafter.
- 6) Prior to the first occupation of the development, secure cycle parking facilities shall be provided and thereafter maintained.
- 7) Prior to the commencement of development hereby approved a full levels survey of the site, which shall include details of the finished floor levels of the proposed buildings, shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with approved details.
- 8) No extensions to the dwelling hereby approved, whether approved by any class of Part One of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out without the prior permission in writing of the Local Planning Authority.