

Appeal Decision

Site visit made on 21 February 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 27 March 2017

Appeal Ref: APP/J2210/W/16/3161460

**Land to the rear of 124 Mortimer Street and rear of 169 High Street,
Herne Bay, Kent**

- 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 P Jenkins against the decision of Canterbury City Council.
 - The application Ref CA/15/02497/FUL, dated 17 November 2015, was refused by notice dated 28 April 2016.
 - The development proposed is demolition of store and construction of a part one/part two storey 1-bedroom house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to outlook;
 - the effect of the proposed development on the character and appearance of the surrounding area and whether it would preserve or enhance the character or appearance of the Herne Bay Conservation Area; and
 - whether the proposed development provides appropriate mitigation measures in respect of the Thanet Coast and Sandwich Bay Special Protection Area (SPA).

Reasons

3. The appeal site is located in a backland area between Mortimer Street and High Street. It is within a courtyard containing flats at ground and first floor levels. Other buildings surrounding the site rise to three storeys.
 4. The proposed development would see the replacement of an existing single storey storage building with a new building providing a one-bedroom house. The proposed development would generally occupy a similar footprint as the existing structure but would extend to the northern boundary of the site. Approximately half of the development would be single storey with the proposed bedroom at first floor level. Access would be from the existing entrance to the courtyard on High Street.
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Living Conditions

5. Neither the western or northern elevation would have any windows whilst the eastern elevation would only have high level windows and roof lights serving both the living area and bedroom. Windows are also proposed in the south facing elevation at first floor level. The high level windows on the eastern elevation would be obscure glazing, fixed and non-opening. The amount of natural light entering the dwelling would be limited. The only outlook for occupiers of the property would be through the southern elevation but this would look out onto the area designated for the bin store and cycle parking which would not be an attractive outlook. The kitchen and shower room would also receive no natural light but this would not be a concern were there sufficient natural light to other parts of the dwelling.
6. I therefore find that as a result of the site constraints the proposed dwelling would have a cramped internal layout with limited natural light which would be detrimental to the outlook for future occupiers. Accordingly the proposal would be contrary to Policy BE1 of the Canterbury District Local Plan, 2006 (the Local Plan) in respect of the requirement to have regard to the amenity of the existing environment. It would also be contrary to Policy DBE3 of the emerging Canterbury District Local Plan (eCDLP) which requires development proposals to address the outlook of future occupiers and Policy DBE7 which requires new housing to have an acceptable standard of accommodation in terms of internal layout among other matters.
7. The proposal would also be contrary to paragraph 17 of the National Planning Policy Framework (the Framework) which confirms that planning should always seek to secure high quality design and a good standard of amenity for all future occupiers of buildings. It would also be contrary to section 7 of the Framework which seeks to secure good design which includes contributing positively to making better places for people.

Character and Appearance

8. The proposal would introduce residential development into a yard which already contains flats. Consequently the principle of residential development in this location would not cause harm to the character of the area. The proposed building would be slightly longer and somewhat higher than the existing structure but I do not consider that the additional mass and bulk would be greatly different from the existing structure. Whilst the double mono-pitch roof is not characteristic of the area the scale of the proposed building would be in keeping with other neighbouring buildings. I consider that the contemporary design approach meets the requirements to provide design quality and the materials, namely black fibre cement boarding and black uPVC windows would appear sympathetic to other buildings locally. Overall therefore I find that the size, scale, siting, layout and materials of the proposed building would not be out of character with the surrounding area.
9. The proposal would comply with Policy BE1 of the Local Plan in respect of the requirement for design proposals to have regard to the impact on local townscape character and the form of development including scale, massing and materials among other matters. It would also comply with Policy DBE3 of the eCDLP which requires amongst other things that development proposals reflect the character of the area and that consideration is given to the impact of development on local townscape. There would also be no conflict with Policy

DBE4 which requires proposals for new modern design to be of a high quality. The principle of residential development would also accord with Policy DBE9 which seeks to manage residential intensification and the Guidelines to Control Residential Intensification, 2008 which seeks to ensure that development addresses the character of an area and fits in with existing built form in terms of appearance, proportion, scale and massing.

10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The site is within the Herne Bay Conservation Area which is centred on the town's urban core and derives its historical and architectural importance from its early 19th century planned seaside resort layout. One of the features of the conservation area is the back yard service industry scattered through retail and central residential areas of the town. Both Mortimer Street and High Street provide a linear street enclosure and are characterised by two and three storey terraces with a range of retail and business uses fronting each. Development is small scale and varied in form.
11. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a heritage asset great weight should be given to the asset's conservation.
12. As the proposed use is compatible with neighbouring uses and would be small scale in terms of the conservation area as a whole the proposed use would not detract from the character of the conservation area. Whilst the materials would be different from those of surrounding buildings I consider that they would not be detrimental to the appearance of the conservation area. Moreover the scale and siting of the proposal would mean that it would not be readily visible from other parts of the conservation area. I therefore find that on balance the character and appearance of the conservation area would be preserved.
13. Accordingly, I find no conflict with Policy BE7 of the Local Plan which requires development within a conservation area to preserve or enhance all features that contribute positively to the area's character or appearance. Similarly I find no harm with Policy HE6 of the eCDLP which requires development within a conservation area to preserve or enhance its special architectural or historic character or appearance. I also find that there is no conflict with the Framework in respect of conserving and enhancing the historic environment or requiring good design.

Mitigation

14. A signed and dated Unilateral Undertaking under Section 106 of the Town and Country Planning Act, 1990 has been submitted by the appellant. This would secure the delivery of the necessary measures to mitigate the impact of the proposed development on the Thanet Coast and Sandwich Bay SPA through a financial contribution. I am satisfied that this contribution complies with the requirements of Policy NE1 of the Local Plan, Policies SP7, LB5 and LB9 of the eCDLP and section 11 of the Framework and accords with the Habitats Regulations and Directive. The contribution is also consistent with Regulation 122 of the Community Infrastructure Regulations, 2010.

Other Matters

15. A letter of objection from the occupier of one of the neighbouring residential properties indicated that the proposed development would result in overlooking. However, based on the information before me the impact would not be sufficient reason to dismiss the appeal.
16. The appellant states that the Council cannot demonstrate a five year supply of housing and the proposal would meet the Framework requirement to deliver a wide choice of housing in a highly sustainable location. Even if there was a recognised shortfall a single dwelling would have a negligible effect upon the supply and would therefore carry little weight.

Conclusion

17. I have found that the proposed development would not have an adverse effect on the character and appearance of the surrounding area and would preserve the character and appearance of the Herne Bay Conservation Area. Additionally the scheme would provide appropriate mitigation in respect of the Thanet Coast and Sandwich Bay SPA. It would also add to the stock of small houses in an accessible location. However, these matters which count in favour of the proposal do not outweigh the harm which I have identified in respect of the living conditions of future occupiers. Consequently, for the reasons set out above, and taking account of all other matters raised, including representations in support of the proposals, I conclude that the appeal should be dismissed.

Kevin Gleeson

INSPECTOR