
Appeal Decision

Site visits made on 8 May 2017 and 5 June 2017

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 12 June 2017

Appeal Ref: APP/L2250/W/17/3167478

Sea Close, Cannongate Road, Hythe, Kent CT21 5PX

- 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 Kingston against the decision of Shepway District Council.
 - The application Ref Y15/1034/SH, dated 12 October 2015, was refused by notice dated 22 July 2016.
 - The development proposed is erection of 14 flats with car parking.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At my visits, the existing vacant dwelling at the appeal site was locked and most window openings were boarded up, so its interior was not inspected.

Main issues

3. The main issues are:
 - the effect that the proposal would have on the character and appearance of the surrounding area,
 - whether the proposal would make an appropriate financial contribution towards the provision of affordable housing in the locality,
 - whether the proposal would cause the unjustified loss of the non-designated heritage asset, and
 - the effect that the proposal would have on the living conditions of the future occupiers, with regard to daylight and sunlight, and its effect on nearby occupiers' living conditions at Woodend, with regard to outlook.

Reasons

Character and appearance

4. The Council's reason for refusal 3 alleges conflict with Policy SS3 of the *Shepway Core Strategy Local Plan* (CS). However, as the Policy aims to direct development towards existing sustainable settlements and the proposal would be within the urban boundary of Hythe, it would satisfy CS Policy SS3.
5. The appeal site is within the Cannongate Road/Cliff Road/Seabrook Road, Hythe Area of Special Character designated in the *Shepway District Local Plan Review* (LP). The immediate area is mainly characterised by detached generally well-proportioned dwellings and flats buildings, which are spaciouly

- sited within their leafy sylvan gardens. The abundant mature vegetation on the hillside contributes positively to the verdant skyline and to local character.
6. From the golf course and the sea front, the existing dwelling appears as one of the loose-knit dwellings that punctuate the wooded slope as Cannongate Road curves up around the outcrop. It harmonises with the form and scale of the traditional and more recent dwellings that are important to the character and appearance of the area. Its setting in landscaped surroundings on the wooded hillside contributes positively to local character and the sense of place. The dwelling and its garage would be demolished to make way for the proposal.
 7. The proposed development would include 14 flats in a single building, all of which would enjoy seaward views. The building would be set into the sloping hillside, it would broadly align with the back of the existing dwelling, and there would be ample space at the sides to safeguard local character.
 8. However, due to its considerable bulk, complicated split level stepped and stacked form, tall height, complex roof forms, substantial front projections, and inelegant proportions, the proposal would be harmfully dominant and out of keeping with its surroundings, and it would erode the verdant appearance of the wooded hillside that provides the scenic backdrop to this part of Hythe.
 9. For the same reasons, the proposal would look unacceptably incongruous in views along the drive from the access to Woodend, and it would harmfully intrude into its leafy surroundings in views from the lower part of Cannongate Road. The building and its hard-surfaced areas would take up less of its site than some nearby developments. However, the lawn-topped garages sustain the verdant character of the partly tree-screened Woodend, and Villa Maria and Coast are sympathetic to the sylvan slope. Moreover, these buildings, whilst different, harmonise with one another and respect local character.
 10. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to CS Policy DSD which aims to improve the environmental conditions in the area, LP Policies SD1 and BE1 which seek a high standard of design and respect for context, and LP Policy BE12 which aims to resist development that would harm the character of the area, especially due to a greater visual impact of buildings. It would also be contrary to the *National Planning Policy Framework* (Framework) which aims to always seek to secure high quality design and to take account of the character of different areas.

Affordable housing

11. As the existing dwelling would be demolished, the proposal would achieve a net gain of 13 dwellings. Up-to-date CS Policy CSD1 seeks affordable housing and states that development proposing 10 to 14 dwellings should provide at least 2 affordable dwellings on-site, subject to viability. Provision should be made on-site (unless off-site provision through a financial contribution of broadly equivalent value can be robustly justified).
12. Whilst on-site provision of 2 affordable dwellings would satisfy the Framework aim of creating inclusive and mixed communities, the Council has agreed that a financial contribution for off-site affordable housing would be acceptable. The Council seeks a sum of £312,000, being £156,000 for each proposed dwelling, after researching recent and current market sale prices of similar new

developments within the Hythe area. Instead, the appellant has offered a sum of £156,000 in total, on the basis that a similar proportion of the cost of providing 2 smaller flats in the locality as affordable housing would be about half that of each of the proposed flats.

13. The appellant's reasons for proposing a lower sum also include that the existing dwelling could have provided a number of flats, so the lower net gain could have required fewer affordable dwellings. As the existing dwelling has not been converted, and no permission to do so has been put to me, this attracts little weight. It is also argued that the Council's suggested sum would not satisfy the '6 tests' in Framework paragraph 206, but these 'tests' apply to planning conditions. Instead, the obligation would need to meet all 3 'tests' in Regulation 122 of *The Community Infrastructure Levy Regulations 2010* and Framework paragraph 204. As CS Policy CSD1 seeks 'at least 2 affordable dwellings' and a 'contribution of broadly equivalent value', the outer flats on the 3 main floors would not be unusually large 2-bedroom dwellings, and there would be no planning control over their internal finishes, the sum sought could meet the relevant tests. Furthermore, whilst the contribution sum would be 'subject to viability', little viability evidence has been put to me.
14. Whilst Planning Practice Guidance advises that affordable housing could be subject to a pre-commencement planning condition in the case of more complex or strategically important development, it would not be appropriate for this fairly simple scheme and no exceptional circumstances have been put to me. The *Folkestone Hythe & Romney Marsh Shepway District Council Affordable Housing-Supplementary Planning Document*, which predates the CS and the Framework, was not a concern of the Council in its reasons for refusal, and I see no reason to disagree.
15. I therefore consider that the proposal would not make an appropriate financial contribution towards the provision of affordable housing in the locality. It would be contrary to CS Policy CSD1 and the Framework.

Non-designated heritage asset

16. The Council's reason for refusal 1 states that the proposal would cause the loss of the 1920s Arts and Crafts style dwelling, which is considered to be a non-designated heritage asset because of its good state of preservation and many original features typical of that style of period building. The Framework Glossary explains that 'heritage asset' includes assets identified by the local planning authority (including local listing). The Council has, thus, identified the existing dwelling as a non-designated heritage asset.
17. However, the existing dwelling is not included in any local list in any adopted Development Plan document. From the appellant's evidence, the Council's heritage consultant describes Sea Close as an Arts and Crafts style house, and lists some of its internal and external features. The Council's consultant's map evidence is not before me, but it would seem that Cannongate Road was built as part of railway construction works and that the area was formally developed as a garden suburb during the 1920s, with the houses and planting dating from that time. Its assessment is that Sea Close is an attractive, well designed but not exceptional, generally intact house by lesser known architect Reginald Fry, which has good gardens.

18. By contrast, the appellant's heritage consultant's assessment explains that the aesthetic appeal of Arts and Crafts architecture, as the essence of English domesticity, gave rise to the abundant imitations such as 'tudor-bethan' and 'stockbrokers' tudor' that characterise our C20 suburbs. The Council's likely building date of the 1920s, and the appellant's consultant's detailed evidence, including the largely symmetrical plan form, and construction details such as the false pegs and nailed jowls in the modest veranda, and machine-made tile creased string course in the external finish, support his view that the building style could be described more accurately as 'Stockbrokers' Tudor'.
19. Insofar as the dwelling contributes to the character and appearance of the Area of Special Character, this has already been taken into account in my first main issue. Whilst the attractive but unremarkable dwelling was built on a generous site with exceptional sea views and was landscaped in the cottage garden style after 1960, there is insufficient evidence to show whether it was designed for its site or was simply a standard suburban house type. There is almost nothing to link the dwelling to any notable person or group of local historic interest. So, from what I have read and seen, and in the absence of robust evidence to justify its identification as a non-designated heritage asset, the asset has little heritage significance as an early C20 'Stockbrokers' Tudor' dwelling.
20. As the asset would be demolished, the dwelling and its significance would be lost forever. It would be contrary to the Framework which aims to conserve heritage assets in a manner appropriate to their significance. However, even if there were to be no other harm, this harm would be substantially outweighed by the benefits of the proposal, including the much increased number of dwellings on this reasonably accessible site within the urban area, in line with the advice in Framework paragraph 135.
21. Thus, I consider that the proposal would not cause the unjustified loss of the non-designated heritage asset. There would be no identified conflict with Development Plan policy, and it would satisfy the Framework.

Living conditions

22. The Council has expressed concern about daylight and sunlight in the deeply recessed rooms at the front of the roughly south-facing building, but it has provided little evidence and almost no technical data to support its view. Due to their siting, Bedroom 1 in the 2 inner ground and first floor flats would be likely to receive the least natural light due to the front projections for the kitchen/living/dining rooms and their balconies, the depth of balconies to those bedrooms and the balconies above them. However, as most of the width of Bedroom 1 would be glazed from roughly floor to ceiling, there should be sufficient daylight in those rooms. The future occupiers would have ample opportunities to enjoy sunlight in their kitchen/dining/living rooms and on their balconies, and as occupiers seeking well-sunlit bedrooms could choose to not occupy these flats, the living conditions of its occupiers would be acceptable.
23. Turning to the neighbouring occupiers at Woodend, the flats at 8, 12 and 13 Woodend include dual aspect living areas towards the front of the building. Further back there are single aspect bedrooms with clear-glazed windows in the south-east facing flank wall, which could instead be used as living spaces or studies. Due to the distances and relationships between the proposed building and windows in the roughly south-east flank of the flats at 8, 12 and 13 Woodend, whether or not the planting by the common boundary at Woodend

were to be retained at its present height, the occupiers of those flats would see the side of the building. Whilst it would have a greater impact on the outlook from windows to single aspect rooms towards the back of Woodend, which would be at odds with the spacious character in the area, this has been taken into account in my first main issue. However, the proposal would not be so oppressive or so overbearing that it would unacceptably harm the occupiers' living conditions.

24. Thus, I consider that the proposal would not harm the future occupiers' living conditions with regard to daylight and sunlight, and it would not harm the living conditions of the occupiers of Flats 8, 12 and 13 Woodend, with regard to outlook. It would satisfy LP Policy SD1 which aims to safeguard the amenity of residents, CS Policy DSD which seeks sustainable development, and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

25. The appellant has drawn attention to other developments that have been permitted in Areas of Special Character in the District, which have been taken into account. I have also had regard to my colleague's appeal and costs decisions ref APP/L2250/W/16/3144345 for a new dwelling in an Area of Special Character, but that scheme was for a site in Folkestone, which is some distance from the site. So, I have dealt with the proposal before me on its merits and in accordance with its site specific circumstances and relevant national and local policy and guidance.

Conclusions

26. I have found that the proposal would not harm the living conditions of the nearby occupiers of Woodend or those of the future occupiers, and that the loss of the non-designated heritage asset would be outweighed by the benefits of the proposal. However, the harm that the proposal would cause to the character and appearance of the area and the failure to make appropriate provision for affordable housing are compelling objections to the scheme.
27. For the reasons given above and having regard to all other matters raised, the appeal fails.

Joanna Reid

INSPECTOR