



Appeal Decision

Site visit made on 5 June 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal Ref: APP/Z2260/W/18/3213412

25 Osborne Road, Broadstairs CT10 2AF

- 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 Dr C Khemani against the decision of Thanet District Council.
 - The application Ref F/TH/17/0958, dated 29 June 2017, was refused by notice dated 19 July 2018.
 - The development proposed is erection of 2no. 3-storey buildings containing 10no. 2-bed self-contained flats, and erection of 1no. 2-storey 3-bed dwelling, with associated parking and amenity space, following demolition of existing former doctors' surgery/residential building.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development from the appeal form as amended plans were submitted during consideration of the planning application reducing the number of flats proposed.

Main Issues

3. The main issues are (a) whether there is a requirement for a community use, (b) the effect on the character and appearance of the area, (c) the impact on living conditions of future occupiers, (d) the impact on the integrity of a Special Protection Area and (e) surface water management.

Reasons

Community use

4. The appeal concerns the redevelopment of a detached building on a corner plot currently used as a dwelling but which until December 2015 had a mixed use. Two rooms and a lobby accessed from Manor Road were used as a doctor's surgery, whilst the remainder of the ground floor and the upper floor provided a residence accessed from Osborne Road. Policy CF1 of the Thanet Local Plan (2006) (TLP) states that planning permission for the change of use or the re-use of existing community facilities for non-community uses will only be granted if it is demonstrated that there is no longer a sufficient need for the facility or that adequate alternative accommodation appropriate to community use will be provided.

5. The predominant use of the existing building has long been residential, but its current lawful use includes a doctor's surgery. The Council confirms that permission was granted in 2003 for the sole use of the property as a single dwelling, but this expired without implementation. The proposal therefore would result in the loss of a community facility. Whilst it is likely that patients registered to the former surgery would have been allocated to other facilities, there is no marketing or other evidence before me to confirm that there is not a requirement for an alternative community facility of comparable floor area in the locality; this need not necessarily be another doctor's surgery.
6. As such, the proposal would be contrary to Policy CF1 and Paragraph 92 of the National Planning Policy Framework (2019) (the Framework) (referred to as Paragraph 70 in the 2012 version of the Framework by the Council) which states that planning policies and decisions should "*guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs*". The appellant has referred to a list of NHS surgeries in the area, to plans for a large GP practice elsewhere and the absence of the site from the list of "Assets of Community Value", but these facts do not demonstrate the absence of demand for an alternative community facility the floor area for which could have been included in the proposal.

Character and appearance

7. The present building is set in a spacious landscaped plot with frontages to three roads. The immediately surrounding area is characterised by two storey houses of varying design and separation with attractive gardens. To the north along Osborne Road towards the town centre there is a tighter urban grain with closer spacing and some three storey buildings.
8. The separation between the house on plot 3 and the flats on plot 2 would only be about 1 metre and in association with the massing of the building on plot 2 would result in a more solid and congested appearance to Osborne Road than is typical for the area. The flats building on plot 1 would similarly have a significantly greater height and width than neighbouring buildings in Manor Road and Grosvenor Road and in combination all buildings would leave little space for gardens or landscaping to their rear. The proposal would have a cramped and congested appearance that would not respect or enhance the character of the surrounding area and would thereby be contrary to the design principles set out in Policy D1 of the TLP and in Section 12 of the Framework.
9. I concur with the appellant that many design elements in the proposal reflect features on neighbouring buildings and that the prominent corner at the junction of Osborn Road and Manor Road is suitable for a higher building. But the return frontage to the corner building on plot 2 would present a relatively weak design to the corner alongside the massing of the building to plot 1. The appellant has also made references to a recent permission allowed on appeal for a similar development nearby¹. However, the character of that site and of the area surrounding it differs from circumstances at the appeal site; moreover, the Inspector in allowing the appeal had regard to differences between the development then proposed and a fallback for a similar development. There is not an alternative fallback at the appeal site. I am

¹ F/TH/16/1571 – APP/Z2260/W/17/3176989 – 34-36 St. Peter's Road, Broadstairs.

mindful of the amended plans submitted during consideration of the appeal application, but these do not overcome the concerns raised.

Living conditions

10. The space between the buildings on plots 1 and 2 would provide a reasonably accessible and sized doorstep play area that could be made secure through the provision of enclosures. But the layout would otherwise be devoid of any substantive amenity area for future occupiers. The parking spaces 6-11 would abut the rear wall of the flats in the building on plot 1 and the ordinary use of these spaces would be likely to result in some noise and disturbance for future occupiers. The proposal would be contrary to Policy D1 of the TLP in that it would not provide a high quality layout that does not lead to an unacceptable loss of amenity for future occupiers. The appellant points out that future occupiers who require gardens do not have to purchase one of these flats and refers to parks nearby. However, notwithstanding the preferences of individual occupiers, there is still a requirement for a proposal to provide satisfactory living conditions for future occupiers in accordance with the development plan.

Special Protection Area

11. The site is within a buffer zone for the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The proposal would therefore be likely to result in additional recreational pressures that could impact on the integrity of the SPA. The appellant has indicated willingness to make a financial contribution towards mitigation of this impact in accordance with the Council's Strategic Access and Monitoring Plan and requests this be the subject of a planning condition. However, such contributions should be secured through a legal agreement rather than by condition. I am satisfied that such a contribution would be necessary and in accordance with the tests for planning obligations set out in the Community Infrastructure Levy Regulations (2010). As there is not a completed planning obligation before me, the proposal would be contrary to Paragraphs 175 and 176 of the Framework that seek to protect habitats and biodiversity including the integrity of SPAs.

Flooding

12. The proposal is not accompanied by a surface water drainage strategy as requested by Kent County Council. Had I been minded to allow the appeal, it would have been appropriate for this matter to have been addressed through a planning condition requiring the submission and approval of a drainage strategy.

Other Matters

13. I have noted the representations from local residents in relation to parking provision and the impact on living conditions for adjoining occupiers but have no reason to disagree with the findings of the Council that the proposal would be satisfactory in respect of these matters.
14. The proposal would result in a net addition of 10 dwellings that would assist in meeting the general housing need. However, this benefit would be significantly and demonstrably outweighed by the harm collectively arising from the loss of a community use, the effect on the character and appearance of the area, the impact on living conditions of future occupiers and the impact on the integrity of a SPA.

Conclusion

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

Rory MacLeod

INSPECTOR