
Appeal Decision

Site visit made on 24 June 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/J2210/W/18/3218147

Land to the rear of 124 Mortimer Street and rear of 169 High Street, Herne Bay CT6 5AQ

- 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 18/00612, dated 22 March 2018, was refused by notice dated 27 June 2018.
 - The development proposed is a semi-detached part two-storey and single-storey dwelling following demolition of store.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal form states that the description of development changed from the one used on the original application form. I have therefore used the description from Section E of the appeal form in the above heading.

Main Issue

3. The main issue is whether the development would provide suitable living conditions for future occupiers.

Reasons

Living Conditions

4. The appeal site is located within a yard area behind existing properties on High Street and Mortimer Street. It forms the rear part of the yard, accessed via a gated passageway between the frontage buildings on High Street. It is currently occupied by a wooden storage building which would be demolished to make way for the proposed building. The site is flanked by residential accommodation, including flats, and commercial premises.
5. The proposed development would provide a part two-storey, part single-storey dwelling which would consist of a 1 bedroomed property. The building would be located in the same position as the existing store, adjacent to the side boundary of the site, with amenity space provided to the side and front.
6. Policy DBE4 of the Canterbury District Local Plan (2017) (Local Plan) identifies that all new housing proposals should have an acceptable standard of

accommodation in terms of internal layout, room sizes and amenity space, and refers to accommodation having regard to the minimum space standards in the Technical Housing Standards. The Technical Housing Standards – nationally described space standards (2015) requires a minimum gross internal floor area of 39m² for a 1-storey, 1 bedroomed dwelling, or 37m² if a shower room is provided, or 58m² for a 1 bedroomed, two-storey dwelling.

7. There is some dispute over whether the proposed property would be single-storey or two-storey as the development would consist of a mix of both. Most of the proposed accommodation would be provided at ground floor level, including the living room and bedroom, with a kitchen and bathroom on the first floor within the roof space. I therefore consider that it would not be unreasonable to suggest that the proposed dwelling could be considered under the single storey, 1-bedroom criteria, in which case the internal space provided would meet the required floor space.
8. Internally, the proposed kitchen and bathroom would be located on the upper floor which would have a sloping roof. This would result in parts of these rooms experiencing a restricted ceiling height and I have not been provided with sufficient evidence to demonstrate that this would not result in a cramped arrangement.
9. The internal layout of the proposed dwelling at ground floor level has been amended since the previous appeal dismissal¹ and the development would now provide windows and roof lights to serve all habitable rooms. The living room and bedroom would also achieve natural light as a result of the pairs of glazed doors which would open out into the courtyard areas. I find that although some of the windows would be high level, they would be likely to ensure that all of the rooms receive sufficient natural light. The bin and cycle areas would be located adjacent to No 169 and would not be directly outside of the property and would therefore not adversely impact on outlook.
10. I acknowledge that the immediate area is characterised by relatively high-density development and that there are flats and residential accommodation in proximity to the appeal site. The proposed development would provide a small area of outdoor courtyard space to the side and front of the property. However, as a result of the positioning of the appeal site, which is flanked by a number of existing buildings and flats, it would be highly likely that these courtyard areas would be significantly overlooked. I find that there would be very little outdoor space that could be classed as sufficiently private and accordingly I find that the proposed courtyard areas would not provide suitable living conditions for future occupiers.
11. I consider that the lack of privacy would not be satisfactorily mitigated by the use of tall fencing, raised planters and planting which would be restricted in the limited outdoor space available and would be likely to create an unacceptable sense of enclosure from the proposed property.
12. I have had regard to the previous appeal decision and note that the windows and internal layout have been developed to allow more natural light into the property. However, for the above reasons I find that the proposed outdoor courtyards and internal space to the first floor would result in a development that would not provide suitable living conditions for future occupiers.

¹ APP/J2210/W/16/3161460

13. Consequently, the proposed development would not comply with Policies DBE3 and DBE4 of the Local Plan, which seek to achieve high quality design that considers the privacy of future occupiers and achieves an acceptable standard of accommodation in terms of internal layout, room sizes and amenity space, amongst other things. The development would also fail to accord with the provisions of paragraph 127 of Section 12 of the National Planning Policy Framework (2019) which seeks to achieve a high standard of amenity for future users.

Other Matters

14. The appeal site is located within the Thanet Coast and Sandwich Bay SPA and Ramsar Site. The Council carried out an Appropriate Assessment and consulted Natural England. It was concluded that subject to suitable financial mitigation being secured the proposal would not result in any adverse effects on the SPAs. A Unilateral Undertaking (UU) was submitted by the Appellant during the appeal process which seeks to address the mitigation of impacts on the SPA and the Council consider this to be sufficient to overcome the second reason for refusal. Given my overall findings on the main issues there is no need for me to conclude on the UU.
15. The appeal site falls within the Herne Bay Conservation Area. The proposed building would be situated behind existing buildings on High Street and Mortimer Street and would not be visible from these areas. Furthermore, the scale of the proposed building would be modest. The immediate area is mixed in terms of character and design and therefore the proposed building would not appear incongruous and would therefore preserve the character or appearance of the Herne Bay Conservation Area.
16. I note the example of the approved extension to the flat at 165 High Street². However, I do not know the full circumstances behind this approval and in any event, it related to the extension of an existing property and is therefore not wholly comparable to the scheme before me. I therefore give this limited weight in my consideration of the appeal.
17. The proposed development would provide one additional unit of accommodation, would utilise a brownfield site and is located in proximity to a number of facilities and services. However, these considerations do not significantly and demonstrably outweigh the harm identified for the above reasons.

Conclusion

18. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR

² CA/13/02123/FUL