



Appeal Decision

Site visit made on 5 June 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/X2220/W/19/3221046 47 The Marina, Deal, Kent CT14 6NP

- 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 Sonja Taylor-Jones against the decision of Dover District Council.
 - The application Ref DOV/18/00217, dated 22 February 2018, was refused by notice dated 24 July 2018.
 - The development proposed is the construction of a single occupancy residential dwelling, together with associated amenity space, parking, cycle storage and refuse provision.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single occupancy residential dwelling, together with associated amenity space, parking, cycle storage and refuse provision at 47 The Marina, Deal, Kent CT14 6NP in accordance with the terms of the application, Ref DOV/18/00217, dated 22 February 2018, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and on the living conditions of the occupiers of adjacent property, particularly in relation to outlook.

Reasons

Character and appearance

3. The appeal relates to the site of a detached building arranged over 3 floors with a recessed 2 storey side addition resulting in an asymmetrical appearance. There is a strong building line on the western side of The Marina and several buildings have large windows and balconies to take advantage of the sea view. Nonetheless, there is much variety in the size and design of buildings. To the north there are mainly late Victorian and early Edwardian dwellings, often arranged over 2 floors with rooms set within a pitched roof, but there are also some later infill buildings. To the south is Marina Court, a 4 storey flat roofed block of flats. Land levels fall to the rear of the site where there is a garden extending to Sandown Road. To the rear of the side addition to no.47 and Marina Court are 114 and 116 Sandown Road, a pair of semi-detached houses on lower ground.

4. The proposed dwelling would replace the side addition to no.47, leaving a passageway about 1.5m wide to its new side entrance. It would abut the side boundary with Marina Court, but a similar separation would remain to the flank wall of the building. Whilst the site would be narrower than most fronting The Marina, it would be wide enough for a large dwelling with good sized rooms and a satisfactory internal layout. Moreover, the proposal would broadly respect the rhythm of building blocks and spacing between them along the road. It would not appear cramped or squeezed into the street scene.
5. The proposal would be sited to maintain the frontage building line. It would have a flat roof over the first floor. This would result in a strong horizontal line that would reflect lines and details at Marina Court, and which would align with the eaves height to no.47. Above this, the upper floors would be recessed with a small window to a bathroom and a large bedroom window with a balcony set within a vertical wall below a flat roof. The rectilinear form of the upper floors would contrast with the rooms set in pitched roofs to the north of the site and would exceed the height of the ridge to no.47; but it would mirror the flat roof to Marina Court and provide a transitional step up to its greater height. The recessing of the upper floors would assist in their appearance as a subsidiary element, not prominent in long views along The Marina, and yet forming part of a cohesive design approach.
6. The Council has referred to a prevailing theme of buildings with a core element and subservient side extensions. This can be seen at 48-51 The Marina, but it is not a strong or recurring theme along the road. The recessing of the upper floors would result in a subsidiary element when viewed from the front. There would be a similar stepped appearance to the row of buildings when viewed from the rear, although the upper floors would be set within a pitched roof.
7. The main external material would be timber cladding with aluminium joinery. The extent of timber would contrast with its more limited use on neighbouring buildings. The appellant has suggested alternative cladding options and would be happy to accept a pre-commencement condition with respect to approval of the exterior finish.
8. My findings are that whilst the design of the proposed house would be modern and that some elements of its appearance would contrast with neighbouring buildings, given the mixed form, size and spacing of these buildings that its massing would not be out of keeping with the character of the road and that its design would be informed by cues from the nearest buildings. The proposal would be in accordance with the design considerations in Paragraphs 124 and 127 of the National Planning Policy Framework (the Framework) in achieving well-designed places.

Living conditions

9. The flats at Marina Court have front facing lounge and bedroom windows with access to a balcony with a sea view. Each has a second bedroom at the back with a rear facing window but also a front facing window set in a return wall recessed several metres behind the building's frontage. The framing of the proposed house at ground and first floor level would include a panel wall on the boundary with Marina Court that would preclude overlooking of the balconies to the nearest ground and first floor flats. This "blinker" wall would be about a metre in width with open space behind it enabling a diagonal outlook from the recessed front facing bedroom windows at Marina Court.

10. It is the ground floor forward facing bedroom window to the nearest flat at Marina Court that would be most impacted by the proposal. The appellant has calculated the loss of daylight to this window to be 30.3% and has also produced visualisations of the impact of the blinker wall on the outlook from this window. The long flank wall to Marina Court already restricts daylight and outlook in a south-easterly direction; the blinker wall would partially obstruct outlook in a north-easterly direction from positions close to the window. However, this would not result in a substantial tunnelling impact or significant loss of outlook. The ground and first floor flats at Marina Court would be the most affected but having regard to the fact that these rear bedrooms are also dual aspect there would not be such an adverse effect on living conditions to warrant dismissal of the appeal on these grounds. The proposal would be compatible with Paragraphs 124, 127 and 130 of the Framework in that it would not have a poor design in relation to these neighbouring occupiers but would create a high standard of amenity for existing and future users.

Other matters

11. The proposal has attracted both support and objection from local residents. Concerns have been raised about the impact from overlooking and light loss in relation to 114 and 116 Sandown Road to the rear of the site. There would be a separation of about 22m from the rear first floor windows to the Sandown Road dwellings. I concur with the Council that such separation should not result in undue overlooking and that the impact would be similar to existing overlooking from the rear windows at Marina Court. The proposed house's profile would avoid bisecting a line drawn at an angle of 25 degrees from the centre of the windows serving the ground floor to No. 116 Sandown Road and would be unlikely to have a significant effect in relation to loss of sunlight or daylight.
12. The proposed house would have an integral garage at the front at ground floor level with a forecourt long enough for an additional parking space. The loss of the existing garage to no.47 would be compensated by the provision of 2 parking spaces on the Sandown Road frontage. There are similar parking spaces to neighbouring properties fronting Sandown Road. The proposal would not therefore be out of keeping with the pattern of parking provision and would not be likely to materially impact on demand for on street parking. It would thereby accord with Policies DM11 and DM13 of the Dover District Core Strategy (2010) (DDCS) in relation to parking.
13. At the time of the decision to refuse planning permission, the Council could not demonstrate a 5 year supply of deliverable housing sites. It now claims that it can, a matter disputed by the appellant. Regardless of this the proposal would have the benefit of providing an additional housing unit as a windfall site that would make a small contribution towards the general housing need. It would be sustainable development in relation to its location within a built-up part of Deal, not far from local facilities, and in respect of the proposed energy and water management measures.
14. The use of a crate soakaway for surface water in relation to both the proposed house and no.47 would decrease the risk of flooding offsite as a result of surface water and Southern Water have raised no objection to a connection to the foul sewer. The proposal would be in accordance with Policies CP1, DM1 and DM11 of the DDCS in relation to sustainable development measures.

15. The site is located within approximately 600m of the edge of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The Council has a strategy agreed with Natural England to seek mitigation contributions only from proposals only in excess of 14 units. It is satisfied that the current proposal would not have an adverse effect on the integrity of the SPA.

Conclusion and Conditions

16. The proposal would not have an adverse effect on the character and appearance of the area or a material adverse effect on the living conditions of the occupiers of adjacent dwellings. For the reasons given, and having regard to all other matters raised, the appeal is allowed.
17. In addition to the statutory condition limiting the time period for commencement of the permission, a condition is necessary to list the approved plans in the interests of certainty and to enable the submission of minor material amendments should this be expedient.
18. A pre-commencement condition is necessary to approve details of drainage arrangements as this involves ground works. Similarly, a pre-commencement condition to establish the site level for the building ahead of construction works is also necessary. Whilst external materials have been specified in the proposal, a pre-commencement condition to approve details of the materials would be appropriate in view of the bespoke design and to ensure a satisfactory appearance to the development.
19. A condition is necessary to ensure that the finished floor levels for all living and sleeping accommodation accords with the flood risk assessment. Conditions are needed to approve details of the surfaces and drainage of hard surfaced areas and to ensure that the approved parking spaces and refuse storage and recycling areas are provided. Finally, a condition is needed to preclude the formation of new openings in the side walls of the new house to safeguard the privacy of occupiers of adjacent premises.

Rory MacLeod

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1000A, 2001A, 2002, 2003, 2004, 2005, 2006, 2010, 2011, 2015, 2016, 2017 and 2018.
- 3) No development shall commence until a scheme for the proposed means of disposal of foul water discharge from the development and a timetable for its implementation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall commence above ground floor level until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard landscaping. The scheme shall include hard surfacing, drainage for the hard surfaced areas and means of enclosure for the site. The development shall be carried out in accordance with the approved details.
- 7) The development hereby permitted shall not be occupied until the parking spaces and refuse and recycling store shall have been constructed in accordance with details shown on submitted plan no.2002.
- 8) No other openings shall be formed within the first, second or third floor levels of the north and south facing elevations of the development hereby permitted.