



Appeal Decision

Site visit made on 3 September 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2019

Appeal Ref: APP/L2250/W/19/3226508

33 Julian Road, Folkestone, CT19 5HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jason Reynolds against Folkestone and Hythe District Council.
 - The application Ref: Y18/1241/FH is dated 25 September 2018.
 - The development proposed is 2 no. semi-detached houses each with 3-4 bedrooms following demolition of existing garage block.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has submitted that had it been in the position to determine the application, it would have refused planning permission for the proposed development for the following reasons:
 - 1) Due to the subdivision of the rear garden to 33 Julian Road and having regard to the proposed footprint and siting in relation to neighbouring properties, the proposed building would constitute a cramped and over intensive form of development with a poor layout contrary to the surrounding pattern and character of development. Further, by virtue of the design, height and overall appearance within the street scene, the proposed dwellings would result in a visually intrusive and incongruous development, which would fail to make a positive contribution to the location and surroundings to the detriment of the character of the street scene, contrary to saved policies BE1 and BE12 of the Shepway District Local Plan Review (2006) and emerging policies HB1 and HB10 of the Places and Policies Local Plan (2018).
 - 2) The proposed development would provide insufficient private external amenity space for the proposed dwellings by way of small rear gardens which would have a sense of enclosure due to their small size and the proposed surrounding boundary treatments and three-storey building, resulting in an unacceptable level of amenity for the future occupants of the properties, contrary to saved policy SD1 of the Shepway District Local Plan Review (2006) and emerging policy HB3 of the Places and Policies Local Plan (2018) which requires a minimum garden depth of 10 metres for new dwellings.

- 3) The proposed development by reason of the scale and close proximity to boundaries, would result in an unacceptable overbearing impact and poor outlook to the residential amenities of neighbouring occupiers. As such the development would be contrary to policy SD1 of the Shepway District Local Plan Review (2006) and emerging policies HB1 and HB10 of the Places and Policies Local Plan (2018) and the National Planning Policy Framework which seek to safeguard the amenity of residents.
3. At the time of the Council submitting its Statement of Case the Places and Policies Local Plan (PPLP) to which reference is made within the indicated reasons for refusal was at the examination stage. From the evidence before me this is still the case. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework) weight may be given to policies in emerging plans according to the stage of preparation of the plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of those policies with the Framework.
4. Although the PPLP has reached an advanced stage and the policies cited in the indicated reasons for refusal are broadly consistent with the Framework, the Council has not advised whether or not there are any unresolved objections to these policies. This further reduces the less than full weight I can give to these emerging policies in my determination of this appeal.

Main Issues

5. The main issues in this appeal are the effect of the proposed development on i) the character and appearance of the area, ii) the living conditions of the future occupiers of the proposed dwellings with particular regard to external amenity space and iii) the living conditions of the occupiers of neighbouring properties with particular regard to outlook.

Reasons

Character and appearance

6. The appeal property is located within a predominantly residential area and is divided into flats. Julian Road contains substantial detached 2-storey properties, some with rooms in the roof space, set back from the road in large plots with front gardens and / or hard standings.
7. The appeal site formerly comprised part of the rear garden of No. 33 Julian Road but is now entirely fenced off from the remaining garden and includes a block of three single garages with an area of hardstanding to the front. The site fronts Radnor Park Avenue with Folkestone Sports Centre opposite the site and a chalet bungalow, No. 5 Radnor Park Avenue, to the other side from No. 33. The rear garden of No. 33 and the principal accommodation within No. 5 sit at a higher level than the road and the garages.
8. The site lies within an 'Area of Special Character' as identified by Policy BE12 of the Shepway District Local Plan Review (2006) (SDLPR). The policy aims to protect the character of these areas by resisting development that would result in the loss of vegetation or have a greater visual impact. Policy BE1 of the SDLPR expects new development to be of a high standard of layout, design and materials that accords with existing development in the locality in regard to form, mass, height and elevational details.

9. The Council's aim of protecting character is carried through to the emerging PPLP. Policy HB1 of the PPLP requires, amongst other matters, a development proposal to make a positive contribution to its location and surroundings. Policy HB10 of the PPLP requires, amongst other matters, proposals for the complete or partial redevelopment of garden land to respond to the character and appearance of the area.
10. The plot sizes of the proposed dwellings would be significantly smaller than those of the majority of the other properties in the immediate vicinity. As a consequence, the dwellings would be in close proximity to the side and rear boundaries of the plots and have restricted rear garden areas. Whilst the properties on street frontages in the area do sit fairly close to their side boundaries, this is not the usual case for the rear boundaries of those properties. Overall therefore, the development would have a cramped form and appearance that would not reflect the prevailing pattern of development or character of the Area of Special Character.
11. The proposed development would be of substantial bulk and clearly visible in the street scene. It would therefore have a significantly greater visual impact than the existing garages which, whilst not contributing positively to the character and appearance of the area, are relatively low and set back from the road which reduces their impact. Overall, the development would not make a positive contribution to its surroundings.
12. I therefore conclude that the proposed development would conflict with Policies BE1 and BE12 of the SDLPR and Policies HB1 and HB10 of the emerging PPLP.

Living conditions of future occupiers

13. Policy SD1 of the SDLPR requires development proposals to, amongst other matters, safeguard and enhance the amenity of residents. Policy HB3 of the emerging PPLP requires a minimum area of private garden for the exclusive use of an individual dwelling of at least 10 m in depth and the width of the dwelling.
14. The rear gardens of the proposed dwellings would be approximately 5.8 m deep. The left-hand dwelling would benefit from a side garden and small front garden, but the right-hand dwelling would only have a rear garden as external amenity space for the future occupiers. However, I consider that gardens of the dimensions proposed would be adequate for ancillary domestic activities such as sitting out, drying clothes and playing. Furthermore, the gardens would have a south-westerly outlook which would be beneficial for sunlight.
15. I therefore conclude that the proposed development does not conflict with Policy SD1 of the SDLPR in this respect but clearly conflicts with Policy HB3 of the emerging PPLP.

Living conditions of the occupiers of neighbouring properties

16. As I explain above, Policy SD1 of the SDLPR requires development proposals to, amongst other matters, safeguard and enhance the amenity of residents. Policy HB1 of the emerging PPLP requires proposals not to lead to an adverse impact on the amenity of neighbours, including as a consequence of a loss of privacy and / or poor outlook. Policy HB3 of the PPLP requires sufficient space to be retained for the original dwelling in the case of infill developments. Policy HB10 of the PPLP requires, amongst other matters, for proposals for the

complete or partial redevelopment of garden land, the plot to be developed to be of an appropriate size and shape to accommodate the proposal taking into account the amenity of adjoining residents.

17. The new section of close boarded fence erected between the rear of No. 33 and the appeal site is approximately 2.2 m from the ground floor bay window at its closest point. Although potentially erected as permitted development, it seems to me to have been erected to facilitate the proposed development and I therefore consider it a relevant consideration in the determination of this appeal. The current fence is 1.8 m high and its proximity to the bay window significantly reduces the outlook from the window. However, I note that the proposed block plan drawing DJA/012/18-3 indicates that this fence is to be reduced to 1.2 m high. This reduction in height would avoid the fence materially harming the outlook from that window.
18. Nevertheless, the flank wall of the proposed dwellings would be approximately 8 m from the bay window and extend across a substantial proportion of the remaining rear garden of No. 33. In combination with a height of approximately 7 m to the eaves and 10 m to the ridge, notwithstanding that it would be set at a lower ground level than the bay window, the proposed development would be overbearing and thus result in material harm to the living conditions of the occupiers of the ground floor flat in No. 33.
19. Furthermore, the subdivision of the rear garden of No. 33 has resulted in a very restricted amenity area for the occupiers of the flats in that property, the potential enjoyment of which would be compromised by the overbearing nature of the proposed development. Given the restricted rear garden depth of the dwellings and their proximity to the boundary with No. 5, the development would also result in a loss of outlook for the occupiers of No. 31 and of No. 5. There would be overlooking of the rear garden of No. 31 Julian Road from the upper storey windows in the rear elevation of the proposed dwellings with a consequent loss of privacy for the occupiers of No. 31, although I note that this is not a matter cited in the Council's indicated reasons for refusal or statement of case.
20. I therefore conclude that the proposed development would be contrary to Policy SD1 of the SDLPR and Policies HB1, HB3 and HB10 of the emerging PPLP. It would also fail to accord with the requirement of paragraph 127 of the Framework for developments to create places with a high standard of amenity for existing and future users.

Other Matters

21. I am aware that planning permission has been granted for the erection of a bungalow on the appeal site. I do not have the full details of this dwelling or the circumstances in which the permission was granted, but it would be a significantly different form of development to the proposal before me and does not, therefore, justify the larger development now proposed.
22. The appellant draws my attention to the relatively recent development to the rear of No. 34 Julian Road and to the size of the gardens in the new development next to the Sports Centre. I do not have the full details of these dwellings or of the circumstances in which planning permission was granted, although I note that the new dwellings next to the Sports Centre are not within

the Area of Special Character. In any event, I have to determine the appeal before me on its own merits.

23. I note that Folkestone Town Council does not object to the proposed development and that the occupier of a nearby property considers that it would enhance the area. However, I do not consider that these representations outweigh the harm I have identified above, and I have also noted the objections from the occupiers of neighbouring properties.

Conclusion

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

Martin Small

INSPECTOR