



Appeal Decision

Site visit made on 30 July 2019

by Christopher Butler BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2019

Appeal Ref: APP/L2250/W/19/3227705

Conway, 14 North Road West, Hythe CT214BD

- 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 Mark Herbert against the decision of Folkestone & Hythe District Council.
 - The application Ref Y18/1397/FH, dated 22 October 2019, was refused by notice dated 3 April 2019.
 - The development proposed is the erection of detached dwelling following demolition of existing garage. Resubmission of Y18/0430/SH.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An Examination in Public into the Council's emerging Places and Policies Local Plan (Submissions Draft) (PPLP) commenced in May 2019. The Planning Inspector appointed to consider the PPLP requested additional information. The Council has undertaken additional work in response and consultation on that work has closed. The Council published their 'Main Issues and Council Responses' in regard to that additional work on 25 October 2019 and this was forwarded to the Planning Inspector considering the PPLP the same day. As the PPLP is at an advanced stage of preparation, I give it some weight.

Main Issue(s)

3. The main issues are the effect of the development on:
 - Character and appearance of the street scene;
 - The living conditions of:
 - Adjoining occupiers, with particular regard to No.9 St Johns Road; and
 - Future occupiers, with particular regard to natural light and ventilation at lower ground floor level.

Reasons

Character and appearance of the streetscene

4. The appeal site consists of a narrow plot of land that forms part of the rear garden Conway, 14 North Road West, Hythe (the Host Property). Currently the

site contains a flat roof double garage, which takes up the majority of the width of this part of the plot, that fronts onto and is access from St. Johns Road. The garage projects beyond the front of No.9 St John's Road, the dwelling to the north-west, with a pedestrian access between this property and the garage leading into the rear garden of the Host Property, whilst on the south-eastern boundary of the site the garage is built adjacent to the boundary. The site slopes down from the north to the south with the front of the garage being some 0.8 metre lower than St John's Road. The land drops further moving south.

5. The area generally is characterised by large houses built on generous plots and there is a verdant, open and spacious feel to the area. No.11 St John's Road is located to the south east of the appeal site and is a large two storey detached house, whilst No.9 St John's Road, located on the north-western side of the appeal site is a detached chalet bungalow, with dormer windows in all four roof elevations. The next two properties, as you move north-east are detached bungalows, whilst the properties on the other side of St. John's Road are primarily detached two storey houses.
6. The proposal seeks a two storey dwelling, which has been designed using the natural topography of the site, with the upper floor facing St. Johns Road, giving the development a single storey appearance when viewed from that street and the other floor being provided at lower ground floor level. Light to this level at the front of the development is provided by a lightwell and bi-fold doors, whilst to the rear, due to the topography and engineering works to form the lower ground floor, bi-fold doors will face directly into the properties rear garden.
7. Irrespective of the developments modern and clever design, the proposal when viewed from St. John's Road would be prominent, especially from the dominant gable roof form, and will appear as a cramped over development of the plot that is squeezed into a narrow and confined space.
8. Such a development would erode the verdant, open and spacious feel to the surrounding streetscene and wider area in general. As such the proposal would be visually discordant, out of keeping with the surrounding properties and the prevailing pattern of development in the area generally, contrary to Policies SD1 and BE1 of the Saved Shepway District Local Plan Review 2006 (SDLPR), Policies CSD7, SS1 and SS3 of the Shepway Core Strategy Local Plan 2013 (SCSLP), policies HB1 and HB10 of the emerging PPLP and paragraph 127 of the National Planning Policy Framework (the Framework), which among other criteria seeks to ensure that development is: sympathetic to local character and history, including the surrounding built environment and landscape setting; and maintains a strong sense of place.

The living conditions of adjoining occupiers, with particular regard to No.9 St Johns Road.

9. The proposed development would be constructed on a relatively narrow plot of land. The neighbouring property to the north-west, No.9 St Johns Road, is a chalet bungalow and is located in close proximity to the common boundary of the appeal site. I note the appellant's point regarding the impact of the existing garage on the neighbouring occupier, but even when taking this and the change in ground levels of the proposed development into account, it is clear that the development would have an overbearing impact on the occupiers of

this neighbouring property, due to its depth, mass and bulk and the close proximity of the two properties (the development and No.9 St Johns Road) to the common boundary.

10. In addition to the above, No.9 St Johns Road has a number of windows in its south-east facing side elevation, some of which serve habitable rooms. Even though these appeared to be secondary windows it was clear that the proposed development would adversely impact the outlook from these windows to the detriment of the amenities of the occupiers of that property, which they could reasonably expect to be able to continue to enjoy.
11. In considering these concerns, it is clear that the development would adversely affect the living conditions of the occupiers of No.9 St Johns Road and would be contrary to policy SD1 of the SDLPR and paragraph 127 of the Framework, which amongst other criteria seeks to ensure a high standard of amenity for existing and future users.

The living conditions of future occupiers, with particular regard to natural light and ventilation at lower ground floor level

12. The Council's ground of refusal in regard to this matter, in summary, raises a concern that the lower ground floor, which provides the main living accommodation, would receive a lack of natural light and ventilation via the proposed bi-fold doors located in the front and rear elevations of the development. In this regard the Council considers that the internal design and layout of the proposed development would be poor and provide an unacceptable level of amenity to the future occupiers of the development.
13. Additionally, the Council points to a lack of evidence being submitted with the proposed development in regard to light and ventilation of the lower ground floor. However, I note that no substantive or quantifiable evidence has been submitted by the Council itself substantiating their concerns in this regard.
14. The submitted plans show the lower ground floor to have two main areas, divided by a central area that provides storage, a WC, Etc. Both main areas will receive light and ventilation via bi-fold doors, albeit the bi-fold doors to the front of the site lead out onto an open light-well. In the absence of any substantive or quantifiable evidence from the Council in this regard, I am not persuaded that inadequate levels of natural light or ventilation to the lower ground floor would occur. As such, on the basis of the information before me, I do not find this element of the development would result in unacceptable living conditions for future occupiers or result in a development that would be contrary to the objectives of the Framework or Policies SD1 or BE1 of the SDLPR or policies HB1 and HB10 of the emerging PPLP in regard to the amenities of future occupiers.

Other Matters

15. I have noted that the appellant considers the appeal site to be sustainably located and an infill building plot. The appellant also refers to the site as a 'Windfall' / 'Brownfield' plot. In addition to the above points, I also note that the appeal scheme is an amended scheme to one previously refused by the Council.
16. In regard to the use of the term 'Brownfield', the Council correctly point out that the definition of 'Brownfield Land' as set out in Annex 2 of the Framework,

specifically excludes land in built-up areas such as residential gardens from the term 'Brownfield Land'. As this development site forms part of the residential curtilage of the Host Property and lies within an urban area, as defined by the Council's Development Plan, the site cannot be said to be a 'Brownfield' plot in that sense.

17. Having considered the issues raised by the appellant, in their statement of case, they do not outweigh the harm detailed above that would result from the development.

Planning Balance and Conclusion

18. I am not persuaded that inadequate levels of natural light or ventilation would occur to the lower ground floor of the development thereby adversely impacting on the amenities of future occupiers of the development. However, the proposal would result in a development that would be visually discordant and out of keeping with the prevailing pattern of development in the area and surrounding properties in general.
19. Furthermore, the proposed development would have an overbearing impact on the occupiers of No.9 St Johns Road adversely impacting the outlook from habitable room windows to the detriment of the amenities of the occupiers of that property, which they could reasonably expect to be able to continue to enjoy.
20. As such, the development would be contrary to Policies SD1 and BE1 of the SDLPR, Policies CSD7, SS1 and SS3 of the SCSLP, policies HB1 and HB10 of the emerging PPLP and paragraph 127 of the Framework
21. For the above reasons, and considering all other matters raised, I conclude that the appeal should be dismissed.

Christopher Butler

INSPECTOR