



Appeal Decision

Site visit made on 13 August 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/A2280/W/18/3219576

14 Lincoln Close, Rochester, Kent ME2 2RJ

- 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 RES Construction Ltd against the decision of Medway Council.
 - The application Ref MC/18/0938, dated 21 March 2018, was refused by notice dated 14 August 2018.
 - The development proposed is an attached two bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for an attached two bedroom dwelling at 14 Lincoln Close, Rochester, Kent ME2 2RJ in accordance with the terms of application Ref MC/18/0938, dated 21 March 2018, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - whether or not the parking arrangements associated with the development would be acceptable having regard to its effect upon the character and appearance of the area, the living conditions at neighbouring properties and pedestrian safety; and
 - the effect of the proposal on the integrity of the North Kent Marshes Special Protection Area (SPA).

Reasons

Parking Arrangements

3. No 14 is located towards the centre of a large residential estate. It is positioned at the end of a row of terraced dwellings set at a right angle to Southwell Road. The property has a relatively large front garden which wraps around to the side into a smaller rear garden. Immediately beyond the rear garden is a small section of carriageway which provides on-street parking as well as turning facilities. Most properties in Lincoln Close do not have off-street parking and there is therefore a reliance on on-street parking in the area.
4. The proposal seeks permission to construct a two-bedroom dwelling to the side of No 14 following the demolition of the existing garage. The existing single off-street space serving No 14 would be retained. However, the Council's adopted parking standards appear to require at least one on-site space to serve the proposed dwelling. None are proposed. As the appeal site is some distance

from the town centre, in my view it is likely that any future occupants would own at least one vehicle. Consequently, any vehicles associated with the new dwelling (likely to be one or two cars) would be reliant on the existing on-street parking.

5. I appreciate that some vehicles have been observed parking entirely on nearby footways and surrounding grass verges. However, I did not see such parking at my visit. Rather, I observed numerous gaps available along Lincoln Close and Southwell Road for on-street parking. Although the width of Southwell Road restricts parking to only one side, it therefore appears that there would be existing on-street capacity to accommodate for the limited number of additional vehicles associated with the proposal. The appellant has also submitted parking surveys at Southwell Road and Lincoln Close. Whilst this appears to include vehicles parked within the turning area to the rear of No 14, it shows that these streets were not at maximum parking stress at various times throughout the week when surveys were conducted. This reinforces my assessment that there would be sufficient on-street parking spaces for the proposal.
6. The area is not within a controlled parking zone. Taking this, and all of the above into account, in my view the surrounding streets would be capable of appropriately absorbing the additional parking demand created by a single new dwelling. Consequently, conflict with the requirements of the Council's parking standards would not result in any significant harm. Notwithstanding this, it is also likely that unlawful parking on footways and verges could be effectively managed through other mechanisms/legislation. Thus, I am not persuaded that vehicles associated with the proposal would unacceptably prejudice pedestrian safety or exacerbate the harm to the character of the area during periods of increased parking stress. Neither do I consider that this small scheme would significantly inconvenience existing residents.
7. I note that the Council has recently refused permission for six dwellings at 104A, B and C Poplar Road. However, this scheme would result in a greater parking requirement compared to the appeal scheme. Consequently, it is not directly comparable to the proposal, which I have assessed on its own merits.
8. For the reasons given, I conclude that the parking arrangements associated with the development would be acceptable having regard to its effect upon the character and appearance of the area, the living conditions at neighbouring properties and pedestrian safety. The proposal would therefore accord with Policies BNE1, BNE2 and T13 of the Medway Local Plan (MLP). When read together, these seek to ensure that developments make appropriate vehicle parking provision, are acceptable in relation to the appearance and functioning of the built and natural environment and protect living conditions at nearby properties in terms of activity levels and traffic generation.
9. Turning to national policy, the proposal would not conflict with paragraph 105 of the National Planning Policy Framework (the Framework) which concerns the content of policies if a Council is to set local parking standards. It would also accord with the Framework's objectives of ensuring that proposals function well and do not have an unacceptable impact on highway safety.

Special Protection Area

10. In 2018 the Court of Justice of the European Union held that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at screening stage¹. This is a responsibility that now falls to me as the competent authority.
11. The appeal site is within six kilometres of the North Kent Marshes Special Protection Area (SPA). This SPA is an important recreational and economic resource and it is likely that occupants of the proposed development would visit it. In this regard, the evidence before me is clear that the proposal, when combined with other development in the area, would have a significant effect on this habitat designation, particularly to over-wintering birds, through increased disturbance as a result of recreational activity.
12. The Council is developing strategic measures to mitigate impacts upon European Sites. These will be in accordance with the Category A measures identified in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM). Whilst it develops such measures, it is requesting an interim tariff for developments concerning new dwellings within the influence of European Sites. These contributions would be used to ensure that the agreed SAMM mitigation measures are implemented. Natural England (NE) do not object to this interim approach.
13. During the course of this appeal the appellant has provided an executed Unilateral Undertaking (UU). This would secure £239.61 to fund strategic measures across the Thames, Medway and Swale Estuaries. I have no evidence to show that this fee is not proportionate to this appeal proposal. On receipt of the UU, the Council withdrew its objection in relation to this matter. In addition, I have consulted NE and it is content that the secured financial contribution would be effective in terms of avoiding adverse impacts to the integrity of this European Site. There is no evidence before me to suggest I should reach a contrary conclusion.
14. As such, I am satisfied, on the basis of the specific evidence before me, that the UU is a sufficient mechanism to enable the delivery of proportionate and relevant mitigation pursuant to the Council's strategy for development which could affect this SPA. I therefore find within my Appropriate Assessment that, with the provided mitigation, the proposal would not harm the integrity of the SPA. It would therefore accord with Policy BNE35 of the MLP, the provisions of the Conservation of Habitats and Species Regulations 2017 as amended and the Framework insofar as they seek to secure the long term protection of Special Protection Areas and mitigate any harmful impacts to them.

Other Matters

15. The proposal would be a sufficient distance from No 13 so as not to significantly diminish the access to daylight at this property. Furthermore, whilst it would alter the view from within No 13, this is not a material planning consideration. Overall, the Council has not raised objection in terms of the proposal's impact on the living conditions at surrounding properties. Having visited the site, I see no reason to conclude otherwise on this matter.

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

16. It is also a well-founded principle that the planning system does not exist to protect private interests such as the value of land and property.

Conditions

17. I have considered the conditions put forward by the Council. Having regard to the tests set out in paragraph 55 of the Framework, I have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit, a condition specifying the plans is required in the interests of certainty.
18. I have imposed a condition requiring the submission of a Construction Environmental Management Plan. This is necessary in the interest of the living conditions of nearby residents and wildlife. I have also imposed conditions requesting details of boundary treatments and refuse storage, ensuring that materials for the external surfaces of the proposal match those at No 14 and removing permitted development rights for the enlargement of the dwellinghouse, additions or other alterations to its roof, porches and buildings and hard surfaces incidental to the enjoyment of the dwellinghouse. These are necessary in the interest of the character and appearance of the area.
19. In addition, a condition requiring details of cycle parking is necessary in the interests of reducing the reliance on the use of private cars. A condition requiring details of any external lighting is necessary in the interest of both the living conditions at neighbouring properties and wildlife. Furthermore, a condition ensuring that any unexpected contamination found at the site is suitably dealt with is necessary in the interest of human health.
20. The Council has requested a condition requiring the development to be used solely as a Class C3 dwellinghouse. However, it has not been explained to me why such a condition is necessary. Consequently, I do not consider that it would be reasonable to impose it.

Conclusion

21. For the reasons set out above, the appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal should be allowed.

M Heron

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14-Lincoln-Close-01 Rev. B, 14-Lincoln-Close-03 Rev. A and 14-Lincoln-Close-02 Rev. C.
- 3) No development shall commence above slab level until a Construction Environmental Management Plan, which details working hours, parking of operative vehicles, deliveries to the site and measures to manage noise, dust and lighting, for the construction phase, has been submitted to and approved in writing by the Local Planning Authority (LPA). Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until details of boundary treatments have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to first occupation.
- 5) The materials used in the construction of the external surfaces of the development hereby permitted shall match those at No 14 Lincoln Close.
- 6) The development hereby permitted shall not be occupied until details of the refuse storage arrangements have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to first occupation.
- 7) The development hereby permitted shall not be occupied until details of secure cycle parking have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to first occupation.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the dwellinghouse, additions or other alterations to its roof, porches or buildings and hard surfaces incidental to the enjoyment of the dwellinghouse, as permitted by Classes A, B, C, D, E and F of Part 1 of Schedule 2 of that order, shall take place.
- 9) Prior to the installation of any external lighting, details of such lighting, including measures to mitigate its impact on bats, shall be submitted to and approved in writing by the LPA. Lighting shall be carried out in accordance with the approved details.

- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the LPA. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the LPA. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the LPA. These approved schemes shall be carried out before the development is resumed or continued.

End of Schedule of Conditions