



Appeal Decision

Site visit made on 28 January 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/A2280/W/19/3234476
213 Magpie Hall Road, Chatham ME4 5JB

- 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 H Sathi against the decision of the Medway Council.
 - The application Ref MC/19/0959, dated 3 April 2019, was refused by notice dated 12 June 2019.
 - The development proposed is a retrospective use of a former garage as a studio flat with off road parking and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is within 6km of the North Kent Marshes Special Protection Area/Ramsar sites (SPA). As such, being the competent authority for the purposes of habitats regulations, I must consider the effect of the development on this European protected site. I have therefore, addressed this as a main issue even though it was not cited in the Councils' decision notice as a reason for refusal.

Main Issues

3. The main issues are the effect of the proposal on:
 - the integrity of the North Kent Marshes SPA/Ramsar sites, and;
 - the character and appearance of the area.

Reasons

SPA/Ramsar sites

4. The SPA includes the presence of over-wintering birds that must be protected from disturbance by recreational activities. While the development is a single dwelling, and in isolation unlikely to have a significant effect on the SPA, when considered in combination with other development in the locality there would be such an effect. Although there has not been a site-specific 'Appropriate Assessment' undertaken in respect of the proposal, the Council and Natural England have developed a mitigation strategy to address the effects of development throughout the area.

5. Indeed, Natural England has advised the Council that an appropriate tariff per dwelling should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. From the evidence before me, I consider that the mitigation strategy is being implemented to good effect. However, in this specific case, although the appellant was aware of the need, and willing to make the necessary contribution, there has been no planning obligation or other mechanism submitted to secure that contribution. As such, I cannot be certain that the mitigation measures would be forthcoming or implemented in an effective and timely manner.
6. Therefore, I conclude that the proposal would give rise to an adverse effect on the integrity of the site. Consequently, the proposal is in conflict with Paragraphs 175 and 176 of the National Planning Policy Framework (the Framework) which says, amongst other things, that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Character and appearance

7. The appeal site is located in a residential area of brick and tile dwellings. The properties fronting onto Magpie Hall Road are predominantly two-storey terraced and semi-detached dwellings. Outbuildings can be seen in some of the back gardens of these dwellings, and many have garages or other structures to the rear boundary.
8. Behind Magpie Hall Road there is a mixture of flats and houses that appear to have been constructed at different times which vary in type and scale. To the front of Magpie Hall Road there are allotment gardens which slope up to post-war dwellings. Magpie Hall Road also adjoins Castle Road which is lined by pre-war terraced dwellings.
9. The appeal property has already been constructed and is a modest, white-rendered, single-storey building at the elevated rear boundary of 213 Magpie Hall Road. The building has a decked area facing the rear garden of No 213, and a parking space/car port that is set behind a metal-grille roller gate which fronts onto Ropemakers Court. There are windows facing Ropemakers Court, the parking space and onto the decked area.
10. I noted that nearby rear boundary structures in this section of Magpie Hall Road are predominantly garages. Therefore, it is very likely that the appeal site also accommodated a garage at one time. However, the property appears to be occupied as I observed planters to the main elevation, curtained windows and a trellised surround to a standard residential door. As such, from my site visit, and the evidence submitted, in the form of a Council Tax bill, it is clear to me that the building has been used as a dwelling for some considerable time.
11. Moreover, the simple and under-stated appearance of the building aligns with other rear-garden structures seen in the area. Indeed, in this residential area of limited built uniformity, the blank elevation of the property on this corner plot location provides some cohesion with the outrigger associated with the host dwelling at No 213 as it steps up along Shipwrights Avenue.

12. Therefore, the proposal accords with Policies BNE1 and H4 of the MLP which say, amongst other things, that built development should be appropriate in relation to the character, appearance and functioning of the built and natural environment, and should result in a clear improvement in the local environment.

For similar reasons the proposal accords with Paragraphs 70 and 127 of the Framework which aims include that development should be sympathetic to the local character, including the surrounding built environment and should not cause harm to the local area.

Conclusions

13. Notwithstanding the lack of harm to character and appearance of the area, the adverse effect on the SPA is a sufficient reason to dismiss the appeal.
14. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR