
Appeal Decision

Site visit made on 30 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/Z2260/W/20/3245709

Land adjacent to 39 Margate Road, Ramsgate, Kent CT11 7ST

- 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 J De Rose against the decision of Thanet District Council.
 - The application Ref F/TH/19/0594, dated 2 May 2019, was refused by notice dated 2 August 2019.
 - The development proposed is erection of 2 No. dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on (a) the character and appearance of the area, (b) on the living conditions of occupiers of adjacent and proposed dwellings and (c) on protected areas of environmental sensitivity.

Reasons

Character and appearance

3. The appeal site comprises an irregularly shaped land parcel fronting Winstanley Crescent. It is hard surfaced and was used for parking at the time of my visit. The site is bound by brick walls topped by timber fencing and a chain link fence. Land levels fall gently across the site from the rear western boundary to the site frontage; they also fall to the north of the site.
4. The surrounding area is predominantly residential in character with narrow fronted, two storey terraced houses to both sides of Winstanley Crescent for much of its length. There are similar terraced houses at 31-37 Margate Road; these back on to the western side of the site and have very small back gardens. To the north of the site is an open yard used for parking with access on to Winstanley Crescent; it relates to a large single storey garage building fronting Margate Road (no.39).
5. The proposal is for a pair of two storey semi-detached houses with rooms in the roof served by modest sized flat roofed front facing dormer windows. Both would have a narrow width, a pitched roof parallel to the street and a subordinate rear outrigger. Their shape and appearance would be similar to neighbouring terraced houses. The siting of the pair close to the footway would also respect the curved building line to terraces in Winstanley Crescent.

6. The houses would however largely fill the site; the flank and rear walls to the southern house on plot 1 would be about 1.0m from the boundaries with 31 and 33 Margate Road. As the two storey rear outriggers to 31-35 Margate Road would also be close to the common boundary, the proposal would result in a cramped and congested form of development. There is a tightly knit pattern of development in the surrounding area, but the proposal would nonetheless appear unduly close to the Margate Road terrace, a relationship that would be apparent in views from Winstanley Crescent to both sides of the houses.
7. The proposal would comply with part (1) to Policy D1 of the Thanet Local Plan (2006) (TLP) on design principles in relation to the layout, materials and appearance of the buildings; but it would not comply with part (2) which requires the scale and massing of development to respect or enhance the character or appearance of the surrounding area. There would also be conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) which requires the design of proposals to take opportunities available for improving the character and quality of an area and the way it functions.
8. The appellant points out that the site was previously occupied by Victorian terraced houses and that the proposal would provide dwellings to modern standards but in a style matching the existing terraces. I acknowledge the historic residential use of the site and that former buildings would have had a close relationship with the Margate Road houses. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Similarity to historic development on the site is a material consideration but does not outweigh the harm to the character and appearance of the area I have identified and its conflict with current development plan policies.

Living conditions

9. There are no first floor rear facing windows to the outriggers at 31-37 Margate Road. This may be due to the proximity of former buildings on the appeal site. But there are ground floor rear facing windows and first floor flank windows in the outriggers and ground and first floor rear facing windows in the main parts of the houses. Notwithstanding the location of these houses on higher ground than the appeal site, outlook from their windows would be compromised by the proximity of the proposed dwellings. Furthermore, there would be an unreasonable sense of enclosure within the modest back gardens to the Margate Road terraced houses due to the proposal's close siting and massing.
10. Amenity space provision for the proposed houses would be irregularly shaped and modest in area, as at the Margate Road houses. The most private areas to the rear of the site would be overlooked from first floor rear and flank outrigger windows at 31-35 Margate Road. Resultant levels of privacy would be lower than prevalent in the local pattern of development and would be poor for modern residential development.
11. Living conditions for occupiers of both adjacent and proposed dwellings would not be satisfactory in these respects. The proposal would be contrary to Policy D1 of the TLP which requires development to be compatible with neighbouring buildings and not to result in unacceptable loss of amenity in respect of factors including overlooking and sense of enclosure. There would also be conflict with Paragraph 127(f) of the Framework which requires developments to create

places which promote health and well-being, with a high standard of amenity for existing and future users.

Special Protection Areas

12. The site is near the Thanet Coast and Sandwich Bay Special Protection Area and the Sandwich Bay and the Hacklinge Marshes Site of Special Scientific Interest (SPA) which are vulnerable to potential in-combination impacts from new housing through increased recreational activities. The Council has conducted an Appropriate Assessment on the proposal in accordance with requirements under the Habitat Regulations and consultation response from Natural England. This finds that mitigation of the proposal's impacts can be achieved through a financial contribution in accordance with the Council's Strategic Access Management and Monitoring Plan (SAMM) (2016), a tariff scheme in relation to the size and form of housing proposed. The appeal is not accompanied by a completed legal agreement to secure appropriate mitigation of the impact on the SPA. Without such mitigation the proposal would be likely to adversely affect the integrity of the SPA. It would thereby be contrary to Paragraphs 176 and 177 of the Framework which place a high priority on the protection of such areas of environmental sensitivity.

Other matters

13. The Council acknowledges that it cannot currently demonstrate a five year supply of housing land. In such circumstances the presumption in favour of sustainable development at Paragraph 11 of the Framework would ordinarily apply. The proposal would result in the benefit of two additional dwellings in a sustainable location that would make a modest contribution towards the Council's housing shortfall. The appellant refers to Paragraph 68 of the Framework which confirms that such small and medium sized windfall sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. There would also be limited economic benefits arising from the construction of the houses and contributions to the local economy from future occupiers.
14. However, the harm arising to the character and appearance of the area and on living conditions for neighbouring and future occupiers would significantly and demonstrably outweigh these benefits when assessed against the policies of the Framework as a whole. Furthermore, footnote 6 to Paragraph 11 confirms that the presumption in favour of sustainable development does not apply when adverse effects on SPA have not been appropriately mitigated.

Conclusion

15. The site is not in a good physical condition and does not make a positive contribution to the street scene. I note that the appellant has sought pre-application advice and has endeavoured to provide sympathetically designed dwellings. But the proposal would result in harm in relation to the planning issues identified in the Council's decision notice. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR