
Appeal Decision

Site visit made on 31 May 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/L2250/W/19/3241840

105 Canterbury Road, Folkestone, CT19 5NW

- 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 Coral Ridge Limited against the decision of Folkestone and Hythe District Council.
 - The application Ref Y/19/0447/FH, dated 12 April 2019, was refused by notice dated 9 July 2019
 - The development proposed is the erection of a pair of semi-detached dwelling houses (Resubmission of planning application Y18/0200/SH)
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site visit was delayed due to travel restrictions imposed in light of the Covid 19 pandemic. It was carried out on an unaccompanied basis on 31 May 2020. It was possible to see the site in sufficient detail from public land to fully assess the proposal in light of the supporting arguments and objections raised. I have dealt with the appeal accordingly.

Main Issues

3. The effect on
 - i) the character and appearance of the area;
 - ii) the living conditions of existing and future residents, with particular regard to the provision of external amenity space;
 - iii) the living conditions of neighbouring residents, with particular regard to whether or not the proposed development would result in an overbearing effect on No 103 Canterbury Road; and
 - iv) The health of the lime tree, on the pavement outside the site.

Reasons

Character and Appearance

4. The site appears as an undeveloped townscape gap between No.105 Canterbury Road and No. 108 Linden Crescent. It fronts on to Linden Crescent, which is an attractive road largely composed of three storey terraced buildings set close to the street, with distinctive gable walls at roof level.

5. With a hipped roof and use of facing brickwork, the proposal takes some design cues from the existing residential buildings along Linden Crescent. However, it would be significantly lower in height. The dormer windows would appear much smaller than the street facing gable walls at roof level, found on surrounding properties. The weatherboard cladding at first floor level would be without clear precedent in relation to the surroundings. In consequence, the building would have a noticeably different appearance to those found in its immediate setting.
6. The new structure would be sited forward of the neighbouring buildings, increasing its prominence in the street scene. However, whilst the properties along Linden Crescent generally exhibit an open frontage with low boundary walls, the proposed building would be set immediately behind a significantly higher boundary wall. This would be a visually uncomfortable arrangement, with the retained wall obstructing the front of the proposed building, when viewed from the road. In this respect, the development would appear cramped.
7. The combination of factors set out above means that the proposed building would be at odds with its surroundings, detracting from the quality of the area and the way it functions. Overall, there would be unacceptable harm to the character and appearance of the area. This harm cannot be overcome by conditions requiring further details of materials. The proposal conflicts with saved policy BE1 of the Shepway District Local Plan Review (2006) ("Local Plan") which seeks, amongst other things, to ensure a high standard of design is achieved where new development is proposed.

External amenity space

8. The new houses would occupy much of this shallow plot. With the exception of the area to the side of dwelling no.1, the gap between the proposed building and the boundary wall/fence is of a very small size. It would provide light and ventilation for the ground floor rooms, and access around the building. However, the heavily enclosed nature of this space means that it would not be an appealing place to sit out. It would be of insufficient depth to use for children's play, or other forms of recreation and leisure typically associated with the use of private external amenity space.
9. The works would also formalise the partitioning that has taken place to the original garden of No.105 Canterbury Road. In common with proposed dwelling No.1, this would retain an area that reasonably functions as a small yard, a few metres deep. However, both areas are small in relation to common expectations of gardens associated with residential properties. No meaningful external amenity space would be provided at all for dwelling No.2. Taken as a whole, the external amenity space provided for both existing and future residents would be inadequate, resulting in unacceptable living conditions.
10. Whilst reference is made to public open space nearby which could provide for alternative forms of recreation and leisure, this does not mitigate the harm which arises due to the inadequate private amenity space being provided. The proposal conflicts with Policy SD1 of the Local Plan which requires, amongst other things, that new development achieves a high quality of design which safeguards and enhances the amenity of residents.
11. The second reason for refusal also refers to the small size of amenity space leading to unacceptable levels of noise and disturbance to neighbouring residents. However, the small size of this space would not, in itself, result in

additional noise. It is more likely that the spaces would not be utilised at all due to their limited size. As such, there would be no harm in this respect, but this finding has no bearing on my conclusion in relation to this main issue.

Living Conditions – existing residents

12. The proposed building would rise to two storeys in height. It would sit close to the boundary with an existing residential property at 103 Canterbury Road. The garden of No.103 is already enclosed beyond its rear boundary by the bulk of the building at No.108 Linden Crescent. The proposal would add to this, meaning that the rear part of its garden is enclosed along two of its sides. The bulk and close proximity of the building would be likely to increase the extent to which the neighbouring garden is overshadowed, for parts of the day.
13. This would result in an unacceptable overbearing effect, materially harming the living conditions of the existing residents of No.103 when within their garden. In this respect the proposal conflicts with policy SD1 and HO1 of the Local Plan, together with policy DSD of the Shepway Core Strategy (2013) which seek, amongst other things, to ensure that new residential development safeguards the amenity of existing residents.

Lime Tree

14. There is a mature lime tree on the pavement outside the entrance to the appeal site, along Linden Crescent. This is an attractive landscape feature which helps to soften the built environment, making a positive contribution to the character and appearance of the area. The proposed building would fall within several metres of this tree. Whilst some excavation works have historically taken place, no formal survey has been provided demonstrating whether or not its roots currently protrude into the site area.
15. In the absence of this information there is an unacceptable risk that roots would be severed, leading to serious damage or the destruction of this tree. Whilst conditions could be used to protect the tree above ground level during construction works and secure any necessary works to it, it has not been demonstrated that there is likely to be a technical fix regarding the issue of the roots. As such, it would not be reasonable to deal with the matter by planning condition. In conclusion, the risk of harm to the health of this tree is unacceptable. The proposal therefore conflicts with policies SD1 and BE16 of the Local Plan which, amongst other things, require that development proposals retain important existing landscape features.

Other Matters

16. The development plan policies identified above are consistent with the National Planning Policy Framework ("the Framework"), which seeks to achieve well-designed places.
17. The Council also make reference to emerging planning policies which are not yet part of the development plan, including those which seek to impose space standards for new residential gardens. These appear to be broadly consistent with the principal requirements of the adopted policies discussed above, insofar as they relate to the main issues in this appeal. The proposal also therefore conflicts with these emerging policies, but they are not yet part of the development plan and only attract limited weight. As such, they are not determinative in my decision.

18. Planning permission was previously granted at the site for residential development. However, this approval predated the adoption of the planning policies most relevant to this decision. Whilst reference is made to the digging of foundations associated with this development, the Council regard it as lapsed. The evidence before me does not conclusively demonstrate that it has been lawfully implemented and thus constitutes a valid fall-back position if the appeal fails. Consequently, I give this previous approval little weight. Given the amount of time that has passed since the previous decision, it is appropriate to review the proposed development, including its effect on the nearby lime tree, in light of current planning policy.
19. It is argued that many flats in the surrounding area do not benefit from private amenity space, which is a consequence of their design. However, in this instance permission is sought for 2 houses which would not relate well to their surroundings and, for the reasons given, the external amenity space is unacceptably small. This is a significant issue with the proposed scheme, when it is assessed against current planning policy. As such, the other existing examples of residential development in the surrounding area, cited by the appellant, are not examples that should be followed on this site. On this occasion planning permission is required for the proposed works, and I have assessed the case on its planning merits having appropriate regard to the development plan.
20. The proposal would clean up the site, which appears to have fallen into disuse. It would address the issues associated with fly-tipping and provide two new housing units with reasonable levels of internal space and waste storage. This would be likely to fulfil a demand in the District. In this respect the proposal would help to achieve the objective, set out in the Framework, of boosting the supply of housing.
21. However, the proposed dwellings would lack adequate private external amenity space and would relate poorly to their surroundings. There would also be harm to the living conditions of neighbouring residents, and a risk of harm to the street tree outside the site. Overall, this would not be a well-designed place, which is another objective of the Framework and I attach substantial weight to the harm that would arise, in consequence. Overall, the considerations that weigh in favour of the proposal do not, even cumulatively, outweigh the harm identified. The presumption in favour of sustainable development does not apply.
22. There are also objections to the proposal from interested parties, raising other issues to those identified by the Council and discussed above. However, as the appeal is failing on the main issues there is no need to address these. Whilst concerns are raised about the conduct of the Council, these have no bearing on the material planning issues involved in my assessment of this case.

Conclusion

23. The proposal conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR