
Appeal Decision

Site visit made on 23 October 2020

by A Thompson BSc BTP MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal Ref: APP/L2250/W/20/3252006
2 Kings Road, Folkestone, CT20 3LG

- 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 Stuart Garnet against the decision of Folkestone & Hythe District Council.
 - The application Ref Y19/0633/FH, dated 24 May 2019, was refused by notice dated 22 November 2019.
 - The development proposed is the erection of a dwelling in the garden of No.2 Kings Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Places and Policies Local Plan (PPLP) was adopted on 16 September 2020 and I have therefore taken this into account and accorded policies HB1, HB3 and HB10 of the PPLP, which are quoted in the Council's decision notice, appropriate weight in respect of this appeal. I note that following the adoption of the PPLP, the Shepway District Local Plan Review is superseded and therefore Policy BE1 of that plan, which is also quoted in the Council's decision notice, is no longer relevant.
3. Both the appellant and the Council have been given the opportunity to comment on these changes in the development plan in relation to the determination of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - (a) character and appearance of the area; and
 - (b) living conditions of the occupiers of the development and neighbouring residents.

Reasons

Character and Appearance

5. As the proposed development is located within a corner plot it would front Church Road. Although there is some diversity in the scale, design and siting of individual properties, this section of Church Road is mainly characterised by two storey terraced residential properties, typically set back a few metres from

the back of the pavement. Their main garden areas, and in some cases, off street car parking provision, are generally to the rear of the property.

6. In contrast, the proposed development would adopt a markedly different layout and design approach that would not integrate well with the surrounding area. The building would be set back from the pavement, at the rear of the plot to allow the provision of an off-street car parking space in front of the building. The only garden/amenity areas would be to the side/front of the property. The ridgeline of the proposal would be demonstrably lower than the ridgelines of the adjacent properties. The large single storey side addition with flat roof and substantial lantern roof, would further underline the incongruous and unsympathetic form of development proposed. These demonstrable differences, when taken together, result in a development that would fail to respect the character, form and layout of the surrounding area and would be harmful to it.
7. My attention has been drawn to a number of flat roof extensions nearby, principally in Kings Road, including to the rear of No.2 Kings Road, but I do not consider that such a building form is a common or characteristic feature of the buildings in the surrounding area. Furthermore, it is evident from the submitted plans that the side addition and lantern roof feature would be clearly visible from Church Road. I also note the evidence regarding the provision of off street car parking spaces in front of other buildings along Church Road, but the example identified appears to be some distance from the appeal site and again, such a feature is not a common or sympathetic form of layout.
8. In short, the discordant layout, scale and design of the development would be harmful to the character and appearance of the surrounding area. As a consequence I find that the proposal would be contrary to policies HB1 and HB10 of the PPLP which seek, amongst other things, to ensure that new development respects and makes a positive contribution to the character and appearance of the area. The lack of objections from neighbouring residents or other consultees including Folkestone Town Council and Kent County Council do not alter my conclusion on this matter.

Living conditions

9. The Council's evidence suggests that the garden for the proposed development would have a depth of about 10 metres and a width of 3.6 metres. Although the area would be located to the side of the property, the proposals include provision of a substantial close boarded fence which would provide a reasonable degree of privacy for that area. While the width of the garden may not fully match the width of the dwelling, I do not consider that the scale of the garden would be so inadequate for the scale of the property proposed as to amount to a conflict with policy.
10. In contrast, the Council estimate the remaining private garden area for No.2 Kings Avenue, which is a substantial detached property, would only have a depth of about 4.8 metres. This is less than half the 10 metres required for a new build or converted dwelling. Although there is some additional open space at the front and side of No.2, this space is overlooked from the public highway. Nor do I consider that the proximity of a large public recreational ground a short walking distance away on the other side of Church Street, would provide sufficient mitigation for the very limited private garden space for the host property that would be retained, if the development were to proceed.

11. Accordingly, I find that the proposal would not retain sufficient private garden space for the host property and thus be contrary to Policy HB3 of the PPLP, which amongst other things seeks to ensure sufficient garden space is retained for the original dwelling where infill development is proposed.
12. The rear wall of the proposed dwelling (both 2 storey and single storey elements) would be located immediately adjacent to the boundary between No.2 and No.6 Kings Road. Given the scale and proximity of the proposed building it would have substantial enclosing and overshadowing effects on the garden of No.6 to an extent that would be harmful to the outlook and amenity of the occupiers of that property.
13. The submitted plans proposes that the only window for the first floor bedroom at the back of the property would be in the rear elevation of the proposed building. Such a layout would result in the garden of No.6 being directly overlooked to an extent that would be harmful to the enjoyment of the users of that garden. The degree of overlooking would be far more substantial than is experienced in other rear gardens nearby.
14. I note the appellant's offer to change the first floor plan to move the bathroom (with fully glazed window) to the rear of the building. Such a change might prevent overlooking from that rear window, but I have no details about how the remainder of the first floor would be replanned, in particular, the location and fenestration approach for the displaced bedroom. Given the very cramped nature of the appeal site, I do not consider the appellant's suggestion alone, even if imposed by way of a planning condition, would be sufficient to allow me to conclude that all harmful overlooking of neighbouring properties could be avoided and thus I attach only limited weight to this proposal.
15. In the light of my findings, and notwithstanding the lack of objections from the current occupiers of No. 6 Kings Road, I consider that the proposal would have an adverse impact on the living conditions of neighbouring residents contrary to the provisions of policy HB1 of PPLP, which seeks amongst other things to ensure that development does not lead to an adverse impact on the amenity of neighbours.
16. Drawing these points in relation to living conditions together, I conclude that the proposals would provide acceptable living conditions for the occupiers of the new dwelling in terms of the scale of garden that would be available, but would have an adverse impact on the living conditions of neighbouring residents of both No.2 and No.6 Kings Road and would therefore be contrary to Policies HB1 and HB3 of the PPLP for the reasons set out above.

Other matters

17. The Council's evidence is that the latest figures for the 5-year land supply demonstrate a housing supply of 5.17 years. The proposal would provide one additional dwelling which would make a modest contribution towards providing additional housing in the area, but given the overall level of land supply, this factor in support of the development is only of limited weight.
18. My attention has been drawn to a permission granted for the redevelopment of a workshop at the rear of a property in Cheriton¹ which is some distance from the appeal site.

¹ Y18/1185/FH

19. There appear to be some similarities with the current appeal site, for example, in the identification of a small plot of land (which fronts a road) for the erection of a new dwelling directly to the rear of an existing residential property.
20. However, I have very limited evidence about the Cheriton proposals and I am not aware of what material considerations were considered in relation to that site that informed the decision made by the Council. Therefore, although this other decision is a material consideration which adds some support for the current scheme, I cannot attach substantial weight to it and even in combination with other matters that add support for the scheme, these are outweighed by the harm I have identified. I must in any event also assess each case on its merits first against the prevailing policy background.
21. I note the appellant is aggrieved about the way the Council handled the application. However, it is not for me under a Section 78 appeal to stray into these matters. It is open to the appellant to take these concerns up with the Council directly. My consideration of this appeal has been made on an impartial assessment of the planning merits of the case and the evidence before me.
22. Finally, I do not accept that the proposals are a form a development that meets the policy requirements of the National Planning Policy Framework (the Framework). An important element of the social objective of sustainable development² is to ensure that new development is well designed. For the reasons I have set out above, the proposed development would harm the character and appearance of the area and the living conditions of nearby residents and therefore it falls short of the requirements set out in Section 12 of the Framework.

Conclusion

23. For the reasons I have set out above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Anthony Thompson

INSPECTOR

² Paragraph 8 National Planning Policy Framework