
Appeal Decision

Site visit made on 18 May 2021

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 25 May 2021

Appeal Ref: APP/Z2260/W/20/3264493

79 Fitzroy Avenue, Broadstairs CT10 3LT

- 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 M Winters against the decision of Thanet District Council.
 - The application Ref F/TH/20/0755, dated 10 June 2020, was refused by the Council by notice dated 20 November 2020.
 - The development proposed is erection of a two-storey building accommodating 4 No. 2 bedroom flats, following demolition of the existing bungalow.
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Decision

1. I allow the appeal and grant planning permission for erection of a two-storey building accommodating 4 No. 2 bedroom flats, following demolition of the existing bungalow at 79 Fitzroy Avenue, Broadstairs CT10 3LT in accordance with the terms of the application, Ref F/TH/20/0755, dated 10 June 2020, subject to conditions 1) to 12) on the attached schedule.

Main Issues

2. These are;
 - The effect of the proposal on the character and appearance of the Broadstairs Conservation Area.
 - The effect of the proposal on the Thanet Coast and Sandwich Bay Special Protection Area and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest.

Reasons

Character and Appearance

3. Policy QD02 of the Thanet Local Plan sets out general design principles and Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Policy HO1 states that in addition to allocated sites, permission will be granted for housing on non-allocated sites within the confines of the urban area and villages as shown on the policies map, subject to meeting other relevant Local Plan policies. The appeal site is within the urban area.
4. The Broadstairs and St Peter's Neighbourhood Plan has been subject to a referendum which was in favour of the Plan. As a result, substantial weight can be attached to the Plan as it should be 'made' within 8 weeks of the

- referendum and become part of the Development Plan. Policy BSP9 concerns design where proposals that reflect the design characteristics of the area and have taken account of the guidelines in Appendix 5 will be supported
5. The site is occupied by a bungalow with a flat roof visible behind a false pitch and an unusually large expanse of wall above the window heads. Seen among the other dwellings on this part of the road, the building is seriously at odds with the more general and attractive form of development and detracts from the character and appearance of the area. Replacement of the building would be an opportunity to improve the street-scene, and in an area of such variety, there would be considerable scope in the design approach.
 6. That approach need not result in a copy or continuation of the traditional pitched roofs and fenestration seen in the vicinity and it is clear from more recent developments in Kingsgate Avenue that a contemporary approach can be successful. That view is reinforced by the form of building under development to the sea end of Fitzroy Avenue road. The key is that any new development responds appropriately to the existing built form and the spaces between.
 7. Similarly, there does not appear to be an in-principle objection to the development of flats, notwithstanding the predominance of single dwellings, and the examples on this road and on Kingsgate Avenue again illustrate that point.
 8. There have been previous iterations of the proposal, and the dimensions of the appeal scheme stated by the Council and the degree to which there has been a reduction in size, have been agreed by the appellant.
 9. To the south-west of the appeal site is a low, modest bungalow with some development in depth due to the double roof form and deep plan. Nevertheless, it is relatively unusual within the area, and this part of Fitzroy Avenue, for its low stature and plain detailing. Any redevelopment of the unattractive bungalow presently on the appeal site would be unlikely to follow that lead and would likely appear of a greater scale and bulk.
 10. To the north-east, number 79a is a more recent chalet-bungalow with low eaves and a high-pitched roof spanning from front-to-back but expressed as a full 2-storeys at the further end. Adjoining the site is a high gable wall and to the rear there are significant flat roofed extensions at single storey with a pitched roofed element in part. Of significance in the consideration of this appeal is the front roof projection terminating as a full gable and joining the main roof some courses down from the ridge.
 11. The proposed building would be flat roofed with some articulation on the central feature, standing above the general roof level and forward of the masonry façade, providing a stop-end for the 'Juliet' balcony balustrades. It would extend back into the plot to a greater degree than the adjoining bungalow, past the gable end of number 79a, and at the height of the main flat roof but with some articulation of projecting elements and a central projection to the rear. This arrangement has allowed the main front façade to be narrower and hence less close to the neighbouring plots and buildings than on earlier iterations.

12. These improvements in the design and layout of the building reduce its bulk and hence presence on the street-scene, and whilst prominent in views along the road over the neighbouring bungalow, the modelling of the various planes and the interest added by the central feature and 'Juliet' balconies would be of a standard that allows successful assimilation into that view. The projecting roof to number 79a would be at about the height of the flat roof on the appeal site with the main roof ridge above that line, so that the proposed building would be subsumed to an extent into that background in certain views.
13. In straight ahead views, and these tend to be more fleeting, the gaps at the front to the side boundaries would be sufficient to avoid crowding, and the side projections would be to the rear enough to provide relief while not impinging visually on the neighbouring buildings.
14. To conclude, the building would be a divergence from the more general local typology of pitched roofs and traditional window arrangements, but this has been shown to be successful nearby, and would not cause harm to the character and appearance of the area. The proposal accords with the principles set out in Policy QD02 and whilst not reflecting the design characteristics of the area, would be of a standard that would not warrant dismissal under Policy BSP9, which is a positively worded policy stating what would be supported, but does not therefore preclude a different approach. The design is of the quality sought in the Framework and would be a fitting addition to the street-scene.

Special Protection Area and Site of Special Scientific Interest

15. Local Plan Policy SP29 states that all proposals for new residential development will be required to comply with the Strategic Access Management and Monitoring Plan in order to mitigate against the in-combination effects of new development, through the pathway of recreational pressure on the Thanet Coast Special Protection Area and Ramsar site.
16. Paragraphs 176 and 177 of the National Planning Policy Framework set out requirements for the protection of habitats and for development that is found to have a significant adverse effect.
17. The proposal would replace a single dwelling with 4 flats and hence there would be an increase in units on the site. This and the proximity to the protected areas could lead to a risk of increased recreational use and harm occurring.
18. The Inspector is the Competent Authority at appeal and a Habitats Regulation Assessment is required. The proposal is not directly connected with or necessary to the management of the protected site, and for the reasons set out above, the proposal is likely to have a significant effect on the interest features of the site, alone or in combination through recreational visits and use. In view of these findings, an Appropriate Assessment needs to be carried out. The risks could be satisfactorily mitigated through the signed Undertaking that has been agreed with the Council, to secure contributions towards Strategic Access Management and Monitoring and there is no need to continue with the Assessment.
19. The contribution towards mitigation is necessary to make the development acceptable and would be fairly and reasonably related to the scale and nature of the proposed development. As a result, the proposal would not adversely

affect the integrity of the Special Protection Area and the Site of Special Scientific Interest and would accord with Policy SP29 and the Framework.

Conditions and Undertaking

20. It is reasonable and necessary to ensure that the materials used are those shown on the drawing and on which this Decision is based, and as a prominent feature, samples of the turquoise glazed bricks should be provided. Further details of all external windows and doors should be provided and those windows on the side elevations adjoining the neighbouring dwellings should be obscure glazed and set at 1.7m above floor level to protect privacy. Landscaping details should be provided along with refuse and recycling facilities. Visibility splays and on-site parking is to be controlled and this latter answers an objection from an interested party.
21. A condition naming the 'as proposed' drawings is required for the avoidance of doubt, although the suggested condition refers to a drawing 05-P3 which has not been supplied by the appellant, the P2 version not being up-to-date and showing an erroneous front roof ridge to number 79a. As a perspective view, there is nothing that is not already adequately covered on the other P3 version axonometric drawings.
22. The Undertaking signed and dated 17 May 2021 has been given full weight in the second main issue and is necessary to allow the development to proceed.

Conclusions

23. The proposal would provide additional housing in line with the statement in paragraph 59 of the Framework of significantly boosting the supply and would make better use of land in the urban area. The design, including its height, massing and relationship to other built form, would be acceptable and would accord with the Development Plan and national policies on design previously cited. The Council's housing land supply situation and the results of the delivery test add weight to the conclusion that, for the reasons given above, the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the amended plans numbered 01-P3, 02-P3, 04-P3, 06-P3 and 07-P3 received 28 October 2020.
- 3) No development (other than site clearance/demolition) shall take place until details of the means of foul drainage have been submitted to and

agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such details as are agreed and thereafter maintained.

- 4) The external surfaces of the development hereby approved shall be finished in accordance with the material schedule as annotated and illustrated on approved plans numbered 03-P3 and 04-P3 received 28 October 2020.
- 5) Prior to the construction of the external surfaces of the development hereby approved a sample of the proposed turquoise glazed bricks hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved samples.
- 6) All new windows and doors shall be aluminium and set within a reveal of not less than 100mm.
- 7) Prior to the installation of any external windows and doors, details of the proposed external windows and doors to be used, including their manufacturer's details, colour, finish and form of opening, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) The 4No. windows to the side elevations of the building hereby approved shall be high level, with a sill height of 1.7m above internal finished floor level and shall be provided and maintained with obscured glass to a minimum level of obscurity to conform to Pilkington Glass level 4 or equivalent and shall be installed prior to first occupation of the development hereby permitted and permanently retained thereafter.
- 9) Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape works, to include:
 - Species, size and location of new trees, shrubs, hedges and grassed areas to be planted.
 - The treatment proposed for all hard-surfaced areas beyond the limits of the highway.
 - Walls, fences and other means of enclosure proposed.Shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

The works shall be carried out prior to the first occupation of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
- 10) Prior to the first occupation of the development, the area shown on approved plan numbered 06-P3 received 28 October 2020 for the parking and manoeuvring of vehicles shall be operational. The area approved shall thereafter be maintained for that purpose.

- 11) Prior to the first occupation of the development hereby approved 2m x 2m visibility splays shall be provided to the access on to Fitzroy Avenue as shown on the approved plan numbered 06-P3 received 28 October 2020 with no obstructions over 0.6m above footway level within the splays, which shall thereafter be maintained.
- 12) The refuse and cycle storage areas as shown on the approved plan numbered 06-P3 received 28 October 2020 shall be provided prior to the first occupation of the development hereby permitted and thereafter retained for that purpose.