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## Appeal Decision

Site visit made on 25 May 2021

**by Kim Bennett BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 June 2021**

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**Appeal Ref: APP/Z2260/W/20/3262116**

**13 Canterbury Road, Margate CT9 5AQ**

- 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 MHP Ltd. against the decision of Thanet District Council.
  - The application F/TH/20/0917, dated 20 July 2020, was refused by notice dated 10 September 2020.
  - The development proposed is the conversion and extension of a domestic garage to form a single dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: whether the site is suitable for a single dwelling having regard to the character and appearance of the area; and whether the proposal would result in additional pressure on the Thanet Coast and Sandwich Bay Protection Area (SPA) and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI).

### Procedural Matter

3. Although reason 2 of the Council's decision notice also referred to concerns regarding a flue on the adjoining commercial garage, further information has since been submitted with the appeal papers and the Council has confirmed it is now satisfied that there would be no adverse effects arising in that regard. I see no reason to disagree with that assessment.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a rectangular plot fronting on to Albert Road which is a short distance from Margate sea front. It currently accommodates a long pitched roof garage, set back from the road, which forms part of the curtilage of No 13 Canterbury Road which is a large semi-detached property. Adjoining to the south east is a large commercial garage, set forward of the appeal site building, whilst to the north west are the rear gardens of Nos 15 and 17 Canterbury Road. On the opposite side there is a terrace of four storey properties. Albert Road itself is a no through road.

5. In terms of the principle of a residential use, I agree with both parties that having regard to its urban location and proximity to the town centre and public transport facilities, the site would be in a highly sustainable location, and as such suitable for the proposed use.
6. From a detailed design point of view, the appellant argues that there is an eclectic mix of architectural styles within the road and that the proposed design draws on inspiration from its seaside location, providing a modern twist to surrounding development. Whilst I consider that the character of Albert Road is somewhat different to the beachfront location, I do agree that given the variety of styles and forms of buildings in Albert Road, a contemporary design would not necessarily look out of place. However, the proposal would result in a significant additional massing to the street scene, with a building approximately the same height as the adjoining garage and directly abutting it so that the eaves would be just below the overhanging gutter of the garage itself. On the opposite side there would only be a narrow passageway between the building and the rear boundary fences of Nos 15 and 17 Canterbury Road.
7. The site is very apparent as one enters Albert Road and I agree with the Council that a combination of the above issues would result in a cramped form of appearance and an awkward relationship with the adjoining garage building, in view of the lack of space between the two and the additional massing proposed. Although the commercial garage is also attached to No 7 Albert Road at its opposite end, it is only single storey at that point and therefore offers some degree of visual relief. Whilst the appellant suggests that the area is already characterised by a highly intensive density, I do not consider that building relationships are as tight and cramped as the current proposal would be.
8. I find on this issue therefore that there would be visual harm to the character and appearance of the immediate street scene. The proposal would therefore be contrary to Policies SP35 and QD02 of the Thanet Local Plan 2020 (LP) in that it would not be a high quality development and would not relate well to the surrounding area.

*Impact on the SPA and SSSI.*

9. The Council refers to concerns previously raised by Natural England in respect of increased population in the area giving rise to increased recreational pressure and therefore possible significant effects on the intertest features for which the SPA and SSSI sites have been identified. In response the Council has prepared a strategy to deal with such pressures known as The Strategic Management and Monitoring Plan (SAMM). Essentially, this involves financial contributions from developments which go towards such measures as wardening services, visitor management and monitoring studies, all designed to manage recreational pressure. Such an approach is endorsed by Natural England which regards it as suitable mitigation.
10. An essential part of the SAMM is that it applies to small developments as well as large, on the basis of the cumulative impact of a number of small individual developments adding to the recreational pressure. The extent of the financial contribution for differing developments is based on a tariff approach and set out in the SAMM. The Council advises that for a two bedroom residential unit as proposed, it would be £320. Such a contribution is usually secured through a S106 mechanism. Importantly, I note that the above approach has recently

been confirmed through Policy SP29 in the LP and that it applies to 'all' (my emphasis) residential development.

11. In response, the appellant seems to question whether such a small scale scheme would have a significant impact on the designated sites but accepts nonetheless that the SAMM proposes a strategic approach and also accepts that a contribution would be required. However, the appellant suggests that this could be secured through a planning condition.
12. In that regard, the Planning Practice Guidance makes it clear that positively worded conditions requiring payment of money should not be used. Similarly, requiring the applicant to enter into a planning obligation, would be unlikely to pass the test of enforceability, unless there are exceptional circumstances such as a particularly complex development. That is not the case here and since there is no other mechanism before me in terms of a Unilateral Undertaking for example, I am not satisfied that there is any appropriate mechanism to secure the financial contribution required under the SAMM. Accordingly, the proposal would not be in accordance with Policy SP29 of the LP which requires compliance with the SAMM in order to mitigate against the in-combination effects of new development.

#### *Other matters*

13. I note the concerns raised by nearby local residents in respect of possible overlooking, blocking of light and parking issues. The Council addressed such matters in its officer report and considered that the issues raised were either acceptable or could be controlled through use of appropriate safeguarding conditions. Having assessed those matters at my site visit, I see no reason to disagree.

#### **Planning balance and conclusion**

14. The Council advises that since it made its decision it has not met the Government targets set out in relation to the housing delivery test. Consequently, paragraph 11 of the National Planning Policy Framework is engaged in respect of the issue relating to the character and appearance of the area. In that respect, whilst there would be limited social and economic benefits resulting from one additional dwelling ,albeit modest, the adverse impacts arising from the visual harm set out above, would demonstrably outweigh those limited benefits, when assessed against the policies in the Framework taken as a whole. In respect of the issue relating to the SPA and SSSI, the Framework makes it clear that paragraph 11 does not apply to policies which seek to protect such areas.
15. Accordingly, for the reasons set out and conflict with development plan policies referred to, the appeal is dismissed.

*Kim Bennett*

INSPECTOR