



Appeal Decision

Site visit made on 1 September 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/J2210/W/21/3271610

Land Adjacent To 33A Oakdale Road, Herne Bay, CT6 6AH

- 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 Simpson against the decision of Canterbury City Council.
 - The application Ref. CA/20/00544 dated 29 February 2020, was refused by notice dated 16 April 2020.
 - The development proposed is a single-storey end-terrace dwelling with accommodation in the roof space together with associated parking and infill extension to adjoining property.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The second reason for refusal concerns failure to secure the delivery of necessary measures to mitigate the impacts of the proposed development on the Thames, Medway & Swale Estuaries and The Thanet Coast and Sandwich Bay SPA. Without such mitigation measures it would be contrary to the provisions of the Habitat Regulations and Directive to grant consent for development which, on the advice of Natural England, would affect the integrity of a European site. However I have been supplied with a copy of a signed unilateral undertaking, dated 9 February 2021, made under s106 of the Town and Country planning Act 1990 which provides for the payment of a contribution of £498.00 before development commences. This satisfies the need for necessary mitigation, and therefore the second refusal reason is overcome.
3. However, on 26 February 2021 the council sent an email to the Planning Inspectorate stating that since the appeal was submitted and statement of case was completed, advice has been received from Natural England concerning the Stodmarsh Nature Reserve. This is protected under European Law and is managed by Natural England. In a formal advice note, Natural England has identified that the water quality in the lakes there has deteriorated and this is linked to the discharge of wastewater from new homes into the wastewater treatment works within the Stour Valley river catchment area. This appeal site falls within this catchment area. In line with Natural England advice, any development resulting in additional overnight accommodation must be nutrient neutral, otherwise the proposal will cause impacts upon the integrity of Stodmarsh Nature Reserve. The council informs me that, as yet, there has been no resolution of this matter, hence the second main issue set out below.

Main Issues

4. The main issues in the case are: i) whether the site and the design is suitable for the development of the proposed dwelling bearing in mind that the plot is narrow, and the relationship of the proposed bungalow to the streetscene; and ii) whether there is a means of ensuring that the proposal will not cause impacts upon the integrity of Stodmarsh Nature Reserve.

Reasons

The suitability of the site and the design of the proposed dwelling

5. The existing streetscene in Oakdale Road is made up of a mix of detached, semi-detached and terraced properties. At the north, Mickleburgh Hill end of the Road, the first 12 to 14 houses are in the form of a single terrace on both sides of the road. These are substantial 2 storey buildings and have a rhythm created by gabled bay windows. Beyond these, to the south, the character becomes more suburban and varied, with bungalows to the west and mainly 2 storey houses to the east, predominately semi-detached on both sides. In the vicinity of the appeal site, which is on the west side of the road, the dominant form becomes bungalows, whilst on the west side this occurs a little further on. There is a predominance of detached dwellings, although on the appeal site side of the road, there tends to be minimal spacing between the dwellings. A little further on, Oakdale Road continues beyond Spencer Road, but it is the character of the section of Oakdale Road just described that I consider the appeal proposal should be judged against.
6. Whilst I consider that the long terraces at the northern end of Oakdale Road present a fine streetscape, the remainder of the road does not have the same cohesion. Not uncommon features of the part of the road in the vicinity of the appeal site are extensions and garages that result in the small spaces between many of the properties. The appeal scheme has the appearance of being an extension to the existing bungalow. This is the result of putting the entrance door in the side elevation. There would remain a gap, typical of development in this length of the road, between the proposed dwelling and the adjacent bungalow at No.35.
7. The appeal proposal is for a small dwelling. It meets the nationally described space standards for accommodation and provides for car parking and refuse and cycle storage. It is likely to be a relatively affordable dwelling. These attributes are of value in weighing the merits of the proposed development. I am led to the conclusion that the site is suitable for the development of the proposed dwelling, and even though the plot is narrow, it would not appear cramped, but would sit comfortably within the streetscene.
8. There remains the issue of the impact of the proposed dwelling on the integrity of Stodmarsh Nature Reserve. Since as yet there has been no resolution of this matter and there is no indication of when a solution may be found, I must determine the appeal as the case stands at present. As the competent authority, I have a duty to ensure that there is no impact on the Special Protection Area. Without an assurance that there would be no detriment to the ecological importance of the Stodmarsh Nature Reserve, the proposed development cannot be permitted.

Overall conclusion

9. Whilst I find that the site and the design is suitable for the proposed development, taking account of its relationship to the streetscene, the fact that, without suitable mitigation or other assurance that it would be nutrient neutral, it would be detrimental to the ecological importance of the Stodmarsh Nature Reserve, means that I must dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR