



Appeal Decision

Site visit made on 24 November 2021

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/J2210/W/21/3275112
42 South Street, Whitstable CT5 3DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Patricia Kingston against the decision of Canterbury City Council.
 - The application Ref CA/21/00216, dated 25 January 2021, was refused by notice dated 26 March 2021.
 - The development proposed is erection of detached bungalow with associated parking following demolition of existing double garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with the matters of access and layout submitted for approval. Aspects of landscaping, scale and appearance were reserved at the outline stage. I have determined the appeal on this basis.
3. The appellant's written submissions include reference to the proposed dwelling being for a self-build developer. However, neither sections 4 or 15 on the application form formally confirm this intention and no mechanism to secure the proposal for such housing has been submitted. I have therefore considered the appeal on the basis that a single open-market dwelling is proposed.

Main Issues

4. The main issues for the appeal are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development upon the integrity of the Thanet Coast and Sandwich Bay Special Protection Area and the Thames, Medway & Swale Special Protection Area (the SPAs).

Reasons

Character and appearance

5. South Street and the network of surrounding roads are residential in character with a variety of dwelling types and forms prevalent. Dwellings address the

public highway in different ways, but the majority have wide frontages and reasonably proportioned front elevations, giving a perception of spaciousness within a built context. This is a regular pattern of development in the area with very few exceptions. Properties generally front the highway with modestly sized front gardens and have walkways between their flanks and respective side boundaries.

6. The proposal would see a new bungalow erected in between No.42 and No.44 South Street in place of a double garage. The dwelling would have a narrow profile, sited in close proximity to both its flank boundaries upon which are the two-storey side elevation of No.42 South Street and the flank of the single storey garage attached to No.44 South Street. Trees and landscaping within the appeal site would be cleared to make way for the proposal.
7. I noted from my site visit that, even when taking existing landscaping into account, the width of the appeal site would be physically narrower when compared to other properties in the immediate vicinity, appearing discordant with the pattern of development in the area. Consequently, the proposed dwelling would present a narrow façade to the highway with a short stunted front garden and would be very tight to its side boundaries. With very little room between its boundaries and the flanks of neighbouring buildings, the dwelling would appear cramped and contrived in the local context. It would be visually incongruous as a result and detrimental to the character and appearance of the street scene.
8. My attention has been drawn to other dwellings and permissions that would have similar characteristics, although none are seen in the same street scene as the appeal site, with some examples further afield, and I do not have full details of these cases. In any event, each case must be determined on its own merits. My attention has also been drawn to the lack of objections to the scheme, but this does not indicate that the proposal meets the expectations of design policies within the Development Plan.
9. The proposal would be in stark contrast to the established character and appearance of the area, causing visual harm as a result. The proposal would therefore be contrary to policy DBE3 of the Canterbury District Local Plan (the LP) which seeks to secure high quality design.

Integrity of the SPAs

10. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site¹, must consider mitigation within the Framework of an Appropriate Assessment rather than at the screening stage. This responsibility now falls to me within this appeal.
11. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European sites.
12. The appeal site falls within 6km of two SPAs. The sites are designated at European level for their environmental importance, providing habitats for wintering birds, wildfowl and wading birds. The site is used for public recreation and so the proposal, when considered alone or in combination with other

¹ Now the National Site Network following withdrawal from the EU

schemes, could have significant effects on the quality features of interest of the SPAs due to the increased recreational use.

13. When concluding that the scheme, either alone or in combination with other schemes, would have a significant effect on the quality features of interest of the identified European sites, it is incumbent upon me to undertake an Appropriate Assessment.
14. Whilst the main parties agree that mitigation should be provided in the form of a financial contribution, the appellant has not secured any mechanism for paying such contributions and no obligation has been submitted to the appeal.
15. Since I am dismissing on other grounds, I do not need to undergo the task of Appropriate Assessment in this instance. Nonetheless, on the evidence before me I can only conclude that, in the absence of necessary mitigation, the proposal would have an adverse effect on the integrity of the designated site contrary to policies SP1, SP6, LB5 and LB9 of the LP, that give the highest level of protection for internationally designated sites of biodiversity interest.

Conclusion

16. For the reasons given above, the appeal is dismissed.

David Wallis

INSPECTOR