
Appeal Decision

Site visit made on 1 December 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/Z2260/W/21/3275706

9-11 Clarendon Road, Margate, CT9 2QL

- 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 Damien Cooke against the decision of Thanet District Council.
 - The application Ref F/TH/20/1743, dated 16 December 2020, was refused by notice dated 23 April 2021.
 - The development proposed is erection of a third and fourth floor extension to form 3 no. 1 bed flats following removal of existing pitched roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were received during the application process which, amongst other things, removed dormer windows, added rooflights and re-located the bin stores. Consequently the description used by the Council is more accurate than the application form, as the dormers have been deleted.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Northdown Road Conservation Area;
 - The effect on the living conditions of the occupiers in Madeira Road with regard to privacy;
 - Whether satisfactory provision would be made for refuse storage facilities; and
 - The effect on the integrity of the Thanet Coast and Sandwich Bay Special Protection Area.

Reasons

Character and appearance of the conservation area

4. Northdown Road Conservation Area is linear and forms the 'spine' of the seaside suburb of Cliftonville. The area developed significantly in the Victorian era and reached its heyday from the 1870s onwards. Northdown Road itself retains the character of a historic shopping street. The significance of the area lies in the coherent architecture and clear street pattern which enables the development of this part of Margate to be appreciated.

5. The majority of uses in the conservation area are commercial but Clarendon Road runs parallel to Northdown Road and is residential. The row of properties at Nos 1-8 are in a Gothic style with pointed window heads and pierced parapets. They are generally three stories but Nos 7 and 8 are a grander pair of four stories. The three storey appeal properties at Nos 9-11 are next to them and were constructed in yellow stocks with bays at a later date. They are simpler in design but have attractive detailing including red brick string courses and arches, moulded brackets to the sills, dripstones and a parapet. All these properties, as well as No 12, are identified as Positive Unlisted Buildings in the Conservation Area Character Appraisal.
6. The proposal would extend the appeal building upwards in the same style and materials as existing to create three new flats. Some of the accommodation would be in the roofspace. The joinery would be in timber to reflect the current building and the continuity of the detailed design could be assured by condition. By achieving a close match the architecture of the building would be respected and so the character of the street would be retained.
7. Paragraph 120 e) of the National Planning Policy Framework indicates that decisions should support opportunities to use the airspace above existing residential premises for new homes subject to certain criteria. Increasing the height of the appeal properties would clearly change the relationship between them and their immediate neighbours. However, the proposal would not be as tall as Nos 7 and 8 and this would remain the dominant building – not least because of its ebullient and striking appearance.
8. Currently the height of buildings tails off at this end of the row before increasing to five stories at Turner Court which is outside the conservation area. However, this “visual break” is not a noticeable or significant part of the townscape or a feature that is typical of the area as a whole. The proposed extension would lead to a larger building next to the modest property at No 12 but there would be a sizeable gap to Turner Court. The ‘rise and fall’ of heights along Clarendon Road would be retained and No 12 would not be so ‘dwarfed’ that the qualities of the conservation area would be compromised.
9. Therefore, as the proposed upward extension would be consistent with the prevailing height and form of neighbouring properties and the overall street scene and would be well-designed, it would accord with national policy in this respect. Great weight should be given to the conservation of heritage assets which should be conserved in a manner appropriate to their significance. Given the faithfulness of the proposed design and as the hierarchy of buildings would be unchanged, the proposal would not detract from the Victorian character of Clarendon Road.
10. Therefore the character and appearance of the conservation area would be preserved and not harmed. As the proposal would respond sympathetically to its surroundings it would accord with Policy HE02 of the Thanet Local Plan and would adhere to the general design principles in Policy QD02.

Living conditions of the occupiers in Madeira Road

11. The proposed front windows would face towards the rear of the houses in Madeira Road. There would be about 17m to the rear boundaries and approximately 34m to the backs of the properties themselves. Whilst the new flats would be considerably higher due to the drop in the land this would be a

generous separation compared to what is normally expected in an urban area. Because of the position of the new openings in relation to the houses below any outward views would also tend to be above their roofs.

12. There are already multiple upper floor windows in Clarendon Road looking down towards Madeira Road so the proposal would not significantly increase any overlooking. Furthermore, the mature tree belt at the end of the gardens in Madeira Road would be a barrier. This would be most effective when the trees are in leaf but even in winter months the trunks and branches would provide physical separation. In combination these factors mean that privacy levels at these neighbouring dwellings would not be unduly diminished. Therefore the proposal would not harm the living conditions of the occupiers in Madeira Road and there would be no conflict with Local Plan Policy QD03.

Refuse storage facilities

13. Provision would be made for bin storage in an enclosure with wooden doors at lower ground floor level. This would be a neat and unobtrusive solution. Current arrangements for the existing flats appear to be rather haphazard. The disadvantage with the proposal is that refuse would be kept below street level and would need to be brought up a set of steps to be collected. However, that issue already exists and it seems unlikely that future residents would wish to see their rubbish accumulating. The need to negotiate the steps may be problematic for some but it is not possible to avoid this given the incorporation of a semi-basement in the original design of the properties.
14. Overall the proposal would be a potential improvement for existing occupiers. It would meet the expectation in Policy QD03 for the collection point for storage containers to be within 15m of where the collection vehicle will pass. Furthermore, there would be no visual harm compared to the existing situation and so Policies HE02 and QD02 would also be complied with. Satisfactory provision would therefore be made for refuse storage facilities

Integrity of the Thanet Coast and Sandwich Bay Special Protection Area

15. The proposal would have a likely significant effect on the Thanet Coast and Sandwich Bay Special Protection Area (SPA). In combination with other development in Thanet, three additional dwellings would be liable to lead to recreational disturbance having a detrimental impact on overwintering birds. Policy SP29 of the Local Plan indicates that all proposals for new residential development should comply with the Strategic Access Management and Monitoring Plan to mitigate the effects. The policy requires a financial contribution based on a tariff.
16. The appellant is willing to pay the contribution and has provided a draft unilateral undertaking to that effect. However, this is unsigned and no evidence of title has been provided. The Planning Inspectorate's *Procedural Guide: Planning Appeals - England* explains at Annex N that the appellant should make sure that an obligation is executed and a certified copy received within 7 weeks of the start date of the appeal. Furthermore that decisions will not normally be delayed for this purpose. It also confirms that assurance of title will be required.
17. The upshot is that there is no mechanism in place to secure the necessary payment to mitigate the effects on the SPA in line with Policy SP29. As a

result, following an appropriate assessment, the proposal would adversely affect the integrity of the SPA and would be contrary to Local Plan Policy SP28 which seeks to protect European designated sites. Moreover, in these circumstances, the Conservation of Habitats and Species Regulations preclude the proposal from proceeding.

Other considerations

18. The 2020 Housing Delivery Test results show that the delivery of housing in Thanet was 54% of the housing requirement as measured over the previous three years. There is nothing to indicate that the proposed flats could not be built swiftly and so they could potentially contribute to improving the rate of delivery as a 'windfall'.
19. Other concerns were raised in representations at application stage. However, there is no evidence that the proposal would lead to an adverse impact on biodiversity or trees or place an excessive strain on local community services. The flats would be close to the facilities and transport links in Northdown Road so off-street parking is not essential. Any noise or disturbance during the building works would be short-lived and could be addressed via a construction management plan, if necessary.
20. The impact on the welfare and well-being of existing upper floor tenants has also been raised. From the information provided these people may have relevant protected characteristics under the Equality Act 2010. It is unclear what the implications of the proposal would be for them although changes are shown to the bathroom layout of Flat 3 at 11 Clarendon Road. Nevertheless, as the appeal is to be dismissed, there is no need to give further consideration to this matter as part of the public sector equality duty.

Conclusion

21. Paragraph 69 of the Framework indicates that the development of windfall sites should be supported and great weight given to the benefits of using suitable sites within existing settlements for homes. There are no objections regarding the effect on the conservation area, living conditions or refuse storage arrangements. The proposal would increase the supply of housing in a District where delivery is running behind Government expectations. However, the submitted undertaking has not been completed and so the proposal would adversely affect the integrity of the SPA. This is an overriding consideration.
22. Overall the proposed development would be contrary to the development plan and there are no other material considerations which outweigh this finding. Therefore the appeal should not succeed.

David Smith

INSPECTOR