



Appeal Decision

Site visit made on 1 February 2022

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/J2210/W/21/3277312

Land to rear of 27A Oxford Street, Whitstable, CT5 1DB

- 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 James A Ellis (Minster) Ltd against the decision of Canterbury City Council.
 - The application Ref CA/20/01973, dated 9 September 2020, was refused by notice dated 21 January 2021.
 - The development proposed is the erection of a single person dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are firstly, the effect of the development on the Thames, Medway and Swale Estuaries and Thanet Coast and Sandwich Bay Special Protection Areas (SPAs), and secondly, whether the proposed dwelling would provide future occupiers with an acceptable level of accommodation with particular regards to outlook.

Reasons

SPAs

3. The site is within the zone of influence of the SPAs. In combination with other development, the proposal has the potential to create recreational disturbance in those areas by increasing the resident population. There would therefore be a likely significant effect on the SPAs.
4. Policy SP6 of the Canterbury District Local Plan 2017 (the LP) explains that in these circumstances new developments are expected to fund management and monitoring measures to mitigate these impacts. Whilst Unilateral Undertakings (UU) were submitted with the appeal, they were both undated and contained an incorrect amount for the Thames, Medway & Swale SPA. These matters were first brought to the Appellant's attention by the Council on 4 January 2022.
5. The Inspectorate wrote to the Appellant on 2 February requesting an agreed, signed and dated planning obligation no later than 9 February. At the time of writing an agreed obligation has not been submitted. Accordingly, the only conclusion I can reach on the first main issue is that the appeal scheme would

not provide adequate mitigation for the SPAs and would thus conflict with LP Policy SP6.

Living conditions

6. The appeal scheme is a resubmission of a similar proposal¹ which was refused planning permission in February 2020. A subsequent appeal against that decision was dismissed in August 2020².
7. The previous Inspector raised the following principal concerns; 1) the size of the unit in relation to Nationally Described Space Standards (NDSS), 2) the workability of the living space with regard to identified constraints and 3) the outlook from the bedroom window³. In order to address these concerns, the Appellant has increased the floor area to meet NDSS standards, reconfigured the internal layout and provided an indicative furniture layout and added an additional bedroom window.
8. There is no dispute that the size of the proposed unit now complies with the NDSS. The "Birdseye internal perspective" drawing⁴ shows how it might be possible to configure the internal layout. I can see nothing in that indicative layout to suggest an unacceptable standard of living accommodation. On the contrary, the open-plan living area, hallway, bathroom and small outside seating area together with space for storage, furniture and circulation would offer a level of accommodation commensurate with the likely needs and expectations of end-users.
9. On the final matter of outlook, I can see no reason to take a contrary view to the previous Inspector with regards to the living room window. Additional windows have been provided to the bedroom such that it would benefit from a triple aspect.
10. Whilst I accept the outlook from the dwelling would still be constrained by existing development, that is not unusual in a highly built-up area such as this. Accordingly, prospective occupiers are unlikely to expect expansive views. If I am wrong about that, then they would be free to exercise consumer choice in these matters. When taken together, I consider the number and location of windows would provide the dwelling with ample levels of natural light and a reasonable outlook.
11. The Council has raised concerns about the proximity of a bin storage area located to the south of the appeal site. However, very few details are before me to explain why this would result in unacceptable living conditions for future occupiers. The Reason for Refusal does not specifically refer to noise and disturbance and there is no objection from the Council's Environmental Health team before me.
12. The Council's concern appears to be predicated on the assumption that the bins would be visible from the patio and south facing windows. However, the Council's evidence is scant in that regard and from my own observations, I find it doubtful whether the bins could be seen from the dwelling. Accordingly, this is not a matter which weighs against the scheme.

¹ LPA Ref: CA/19/10285

² PINS Picaso Ref: W/4000846

³ The Inspector was satisfied that the substandard outlook from the living room window could be made acceptable by reducing the height of the boundary wall.

⁴ Ref: 2096.1/PL/03.4

13. Based on the foregoing, I conclude that the development would provide future occupiers with a satisfactory level of accommodation and would accord with LP Policies DBE4, SP1, SP6 and LB5.

Other Matters

14. I have noted the objection from a neighbouring occupier. The effect of the proposal on the character and appearance of the Whitstable Town Conservation Area was a matter dealt with by the previous Inspector and does not form part of the Council's decision to refuse planning permission in this instance. Matters related to the right of way to the rear of No 27 are private issues and not material planning considerations to which I can ascribe any degree of weight. Finally, any disruption caused by construction activity is likely to be short-lived and is not a matter which would justify withholding planning permission. If plant and materials are to be stored on the public highway then the Appellant would need to secure the relevant licences from the Highway Authority.

Conclusion

15. Although I have found that the dwelling would provide an acceptable level of accommodation for future occupiers, in light of the scheme's conflict with LP Policy SP6, I conclude that the appeal should be dismissed.

D. M. Young

Inspector