



Appeal Decision

Site visit made on 15 June 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH July 2022

Appeal Ref: APP/Z2260/W/21/3278478

14 St. Johns Avenue, Ramsgate, CT12 6HE

- 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 Mrs S Lane against the decision of Thanet District Council.
 - The application Ref F/TH/21/0312, dated 2 March 2021, was refused by notice dated 24 June 2021.
 - The development proposed is erection of a 2 storey attached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 2 storey attached dwelling at 14 St. Johns Avenue, Ramsgate, CT12 6HE in accordance with the terms of the application, Ref 21/0312, dated 2 March 2021, subject to the conditions in the attached schedule.

Main Issues

2. These are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether living conditions for the occupiers of 14 St Johns Avenue and for future occupiers of the proposed dwelling would be satisfactory.

Reasons

3. The appeal site comprises a strip of land alongside 14 St Johns Avenue within an extensive residential estate. The proposed dwelling would be attached to No 14. Two previous schemes for detached houses were dismissed at appeal in 2020 (Refs: APP/W/20/3247840 & 3251852).

Character and appearance

4. As observed by the previous Inspector many of the surrounding properties, including No 14, are semi-detached and date from the 1950s. However, immediately to the west of the appeal site, the area has been redeveloped with more recent housing in a distinctly different style.
5. The proposed dwelling would be set back from the front wall of No 14 and would be of lesser width. The hipped roof would be below the height of the existing house and the length of the ridge would be similar to the combined block of Nos 14 and 16. In this way the proposal would be subservient to the existing dwelling. The proportions and alignment of the main front facing windows would reflect the fenestration at No 14 and a matching render finish

could be secured by condition. The front forecourt is shown to be hard surfaced but there would also be scope for soft landscaping.

6. The dwelling has been designed to appear as an extension and would be well related to the original house. Part of the proposal involves re-configuring the entrance to No 14 with access to the new dwelling at the side. Whilst this might be a little unusual, the appearance of the proposed development would not be unduly confusing. There would be a door and windows facing the road and so an active frontage would be incorporated. The new house would function independently of No 14 with separate parking and refuse storage but that it to be expected. It is not uncommon for new properties to be formed that are connected to an existing dwelling.
7. A reasonable distance would be retained to the side boundary and, because of the space at the side of 49 St Johns Crescent, adequate separation would be provided between the older and newer housing types. The gap between buildings would be sufficient to allow for a clear and legible transition. The importance of this was identified by the last Inspector. Indeed, there would be a suitable link between adjoining areas given the recessed position of the proposed development and its complementary design. This scheme can also be distinguished from the earlier ones as these would have been closer to No 49 and would have introduced an additional house type.
8. Overall the general pattern and rhythm of development would be maintained and the proposal would not harm the character and appearance of the area. As such it would accord with the general design principles in Policy QD02 of the Thanet Local Plan. This aims to promote or reinforce the local character of the area and provide high quality design.

Living conditions

9. The proposed development would 'cut across' existing windows in the side of No 14 that serve a living room on the ground floor and a bedroom upstairs. No details of the resulting side elevation or of revised window arrangements have been provided. The living room window is a secondary one and so it is accepted that this area would be adequately lit and would retain an outlook to the front. However, that would not be the case for the first floor room as the narrow opening shown would be inadequate to serve this habitable room.
10. The appellant indicates that there would be scope to re-locate the bedroom window and considers that a condition would be a pragmatic way to deal with any concerns. The Council opposes this course of action.
11. Development could be prevented from proceeding if the details required by a condition have not been agreed. However, the Planning Practice Guidance (PPG) on *Use of Conditions* refers to requiring the submission of further details after permission has been granted and that conditions can be used to mitigate adverse effects. There is therefore no reason to reject the imposition of a condition in principle. The exact details would be a matter for the parties but it appears to me that providing sufficient natural light and outlook to the bedroom would be feasible. For example, this could take the form of a re-positioned window in the side elevation.
12. The PPG also allows for conditions to make minor modifications to the development permitted. The works involved here would fall into that category

and would not make the development substantially different from that applied for. The changes likely to be required to the submitted plans would not fundamentally change the proposal. There is no requirement for public consultation for applications to discharge conditions. Given the likely limited scope of the changes to the fenestration at No 14, there would be no prejudice caused. The tests at paragraph 56 of the National Planning Policy Framework would be met and a condition could also give clarity about the proposed arrangements for the ground floor of the existing dwelling.

13. The internal floor area of the proposed dwelling would be about 66 sq m. The appellant maintains that the property could be occupied by two people rather than three. However, the *Technical housing standards – nationally described space standard* (DCLG, 2015) confirms that bedspaces are a means of classification for assessment purposes and do not imply actual occupancy. Limiting the number of occupants or restricting the use of the second bedroom would be difficult to enforce by condition and potentially unreasonable.
14. On this basis, the standards expect that the floor area should be a minimum of 70 sq m and therefore the proposal would be deficient in this respect. Local Plan Policy QD04 expects all new development to meet the national internal space standards as set out in Table 13. However, the proposed room sizes would be reasonable and would have adequate light, outlook and ventilation. The layout would not be especially cramped. Future occupiers would also have a garden of decent length. Nevertheless, the overall size of the proposed house would be below the expected standard.
15. Subject to a condition, the proposal would not lead to unacceptable living conditions at No 14 in line with Local Plan Policy QD03. However, the proposed dwelling would not meet the internal space standards in Policy QD04 and so is also contrary to Policy QD03 on living conditions which cross-refers to them.

Other Matters

16. 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, an additional dwelling within 7.2 km of the SPA would be liable to lead to recreational disturbance having a detrimental impact on migratory birds.
17. Policy SP29 of the Local Plan indicates that all proposals for new residential development should comply with the Strategic Access Management and Monitoring Plan. This includes a suite of strategic measures to mitigate the effects of new development. Natural England agrees that these are ecologically sound. The policy requires a financial contribution based on a tariff. The planning obligation dated 21 December 2021 would secure the appropriate SPA sum. In this way harmful effects would be prevented. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the SPA.

Final balance

18. The Council cannot currently demonstrate a five year housing land supply. Its latest position is that supply is equivalent to 3.63 years. Paragraph 11 d) of the Framework is therefore relevant.

19. There would be no harm to the character and appearance of the area and living conditions at No 14 could be safeguarded by revised window arrangements. The Framework refers to a high standard of amenity for future users and the size of the dwelling would be below national and local standards. However, the shortfall in the floor area of the proposed accommodation would be modest. Moreover, great weight should be given to the benefits of using suitable sites within existing settlements for homes and the current supply position is well below Government expectations. When assessed against the policies in the Framework as a whole, the adverse impact does not significantly and demonstrably outweigh the benefits of an additional home on a windfall site. Consequently, the presumption in favour of sustainable development indicates that permission should be granted.

Conditions

20. The plans should be specified in the interests of certainty. To ensure a satisfactory appearance the external finishes should match those at No 14. For the same reason, details of the frontage treatment should also be agreed and should include some planting. To ensure facilities are available to promote cycling, the store at the rear should be provided from the outset. As previously explained, revised window arrangements for the flank windows at No 14 are required.
21. However, there is no indication of the likelihood of contamination within this domestic curtilage and so requiring a remediation strategy is not justified.

Conclusion

22. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos LH/21/2/2, LH/21/2/3, LH/21/2/5, LH/21/3/1 and LH/22/2/4.
- 3) No development above ground level shall take place until details of the external materials and external finishes of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. These shall be of the same colour, finish and texture as those on the adjoining property at 14 St Johns Avenue. Development shall be carried out in accordance with the approved materials.
- 4) No development above ground level shall take place until details of the treatment of the front forecourt have been submitted to and approved in writing by the local planning authority. The details shall include species, size and location of trees, shrubs, hedges or grassed areas; the treatment of the hard surfaced areas; and walls, fences or other means of enclosure. Notwithstanding Condition 2), development shall be carried out in accordance with the drawings approved pursuant to this condition prior to the occupation of the dwelling hereby permitted or within timescales previously agreed in writing by the local planning authority.
- 5) Prior to the occupation of the dwelling hereby permitted, the secure cycle parking facilities, as shown on approved drawing no LH/22/2/4, shall be provided and thereafter retained.
- 6) No development shall take place above ground level until floor plans and a side elevation of 14 St Johns Avenue have been submitted to and approved in writing by the local planning authority. These drawings shall show the positioning, size and design of the side windows to the living room and bedroom at No 14. Notwithstanding Condition 2), development shall be carried out in accordance with the drawings approved pursuant to this condition within timescales previously agreed in writing by the local planning authority.