



Appeal Decision

Site visit made on 8 November 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th November 2022

Appeal Ref: APP/X2220/W/22/3294093

98 Golf Road, Deal CT14 6QG

- 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 Stephen Povey against the decision of Dover District Council.
 - The application Ref 21/00677, dated 28 April 2021, was refused by notice dated 9 December 2021.
 - The development proposed is described as: *'Development of a pair of three-bed semi-detached houses on land behind 98, Golf Road, Deal CT14.'*
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original description contained a significant amount of descriptive text: including reasons for the proposal being considered acceptable. I have retained the essence of what permission is sought for and shown on the submitted drawings in the truncated description above.

Main Issues

3. The main issues are:
 - (i) The effect of the proposal on the character and appearance of the area;
 - (ii) The effect on the living conditions of neighbouring occupiers; and,
 - (iii) Whether, given the location of the proposed development in Flood Zone 3, it would pass the 'Sequential' and 'Exception' tests.

Reasons

Character and appearance

4. The appeal site is located alongside and to the rear of No.98 Golf Road. Number 98 is a semi-detached two-storey house with attached single garage to its side, located in a residential area of the coastal town of Deal. The street scene is characterised by a mixture of detached and semi-detached two storey houses facing onto the main road. There are some single storey outbuildings in the rear gardens of these dwellings and also those facing Links Road to the rear.

5. The appeal scheme seeks the demolition of the attached garage to create an access to the rear garden area. Within that rear area, the proposal seeks the erection of a pair of three-bedroomed semi-detached houses (with accommodation in the attic served by dormers) with garden areas and conservatories to their rear.
6. Such arrangements would be at odds with the characteristic built form of dwellings facing the main highways in this locality. I have been directed to some local recently erected buildings by the Appellant, such as those adjacent to Nos 56 and 90 Golf Road, which are likely to have been built within the garden areas of adjoining properties. However, in both cases the buildings themselves face onto the highway, being located a short distance from it. That is not the case in terms of the appeal scheme.
7. As such, the proposed placement towards the end of the rear garden of No 98 Golf Road would represent an incongruous addition to the street scene at odds with the prevailing pattern of development within the area. It would therefore have a negative impact on the character and appearance of the area. Accordingly, it would conflict with Paragraph 130 of the *National Planning Policy Framework* (the Framework), which, amongst others, seeks to ensure that developments are visually attractive as a result of good architecture, layout, and are sympathetic to local character and history, including the surrounding built environment.

Living conditions

8. The relationship of the proposed building and windows are shown on drawings GR01C and GR10A. These show that there would be openings on all four sides. Drawings GR07A and GR08A demonstrate that those in the flank walls would serve stairs landings, with each proposed dwelling accessed via a door located on the flank wall. The openings at the front and rear of the building (facing Golf and Links Roads respectively) would serve bedrooms, living rooms, and bathrooms in the attic.
9. I note that there is some ground level differences between the appeal site and buildings along Links Road. Drawing GR09A indicates that there is a distance of 10 metres from the boundary with Links Road and the rear elevation of the proposed buildings. However, this 10 metre 'gap' includes the conservatories, which would reduce the rear amenity space. Nonetheless, in practice, the use of close boarded fencing and levels differences, would reduce the ability of overlooking from and to the proposed buildings and those facing Links Road.
10. However, at first floor and attic levels, occupiers of the proposed buildings would be able to look across and/or into the gardens and adjacent residential dwellings. In particular, at the front occupiers would be able to look directly into the garden areas directly outside the rear of dwellings facing onto Golf Road. This would result in a loss of privacy and contribute to a sense of enclosure. I note the suggestion made of using 'sanded' or obscured glazing to reduce the impact from overlooking; and this is typically used in bathrooms for obvious reasons. However, the use of such mitigation for bedrooms would create a low standard of amenity for future occupiers and their outlook.
11. Accordingly, I find that the proposal would result in a negative effect on the living conditions of neighbouring occupiers. As such it would not accord with Paragraph 130 of the Framework, which includes that planning decisions should

create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Flood risk

12. The Appellant's Flood Risk Assessment (FRA) indicates that the appeal site is located within Flood Zone 3, though it benefits from pre-existing flood defences¹. Paragraphs 159 to 169 set out national policy on planning and flood risk². This indicates a two stage process – a sequential and an exception 'test' – with the latter containing two criteria which both need to be met for a proposal to be considered acceptable. The Council's Planning Committee Minutes indicate that the sequential test was met. In the absence of this being a reason for refusal and given the evidence before me, I see no reason to disagree.
13. The 'exceptions test' is set out in Paragraph 164 of the Framework. This sets out that to be passed, it should be demonstrated that:
 - a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*
14. The Council does not dispute that it meets criteria b), and given the details within the submitted FRA and Design & Access statement, and the ability to secure such measures through appropriately worded planning conditions, I see no reason to disagree.
15. In terms of wider sustainability benefits to the community³, these have not been articulated within the submitted evidence. I note that there is an absence of a criteria set by the local planning authority for this assessment as advised at Paragraph 36 of the national Planning Guidance.
16. However it is clear from the three examples given in the Guidance, that wider sustainability benefits to the community could include re-use of brownfield land as part of a local regeneration scheme or include an overall reduction in flood risk to the wider community through the provision of, or financial contribution to, flood risk management infrastructure.
17. The proposed scheme, within a residential garden in a built-up area, is not on brownfield (previously developed land) and there is little detail as to how it would contribute to local flood risk management beyond provision for Sustainable Urban Drainage System (SUDs) provisions within the site area. The latter of which are typically used to deal with surface water run off rather than fluvial flooding.
18. Accordingly, as indicated in the Guidance, the 'Exception Test' has not been satisfied and planning permission should be refused. It is necessary to meet both the sequential and exception tests; and both requirements of the

¹ I note that an objection was made by the Environment Agency because at that stage, for whatever reason, they had not been supplied with a copy of the site specific FRA. However, this has been supplied and formed the basis of my considerations here.

² This is further supported by national guidance including <https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>

³ See also <https://www.gov.uk/guidance/flood-risk-and-coastal-change#para36>

exception tests as set out in Paragraph 165 of the Framework. Whilst passing the sequential test, the proposal fails to pass the exception test. It would, therefore, be contrary to the aforesaid Paragraphs of the Framework including 159 to 169.

Other Matters

19. In acknowledge the points about the personal needs and requirements of the Appellant and their family, and their desire to continue to live in Deal. This includes the need to provide accessible living accommodation and parking on site. It is unclear as to how the proposed dwellings have been designed so that they are accessible for a variety of occupants; for example access ramps to the front and rear, wider doors, and/or specific safe areas for less mobile occupier(s) if flooding occurs.
20. Moreover, there are no details of any mechanism to ensure that future occupants would be related to the occupiers of No 98 Golf Road. Put another way, it would be entirely possible that at some point in the future the proposed dwellings could be occupied by unrelated occupiers, which would further heighten concerns from overlooking and loss of privacy. I do not, therefore, find that the personal circumstances of the Appellant and/or their family members justify or overcome the harm arising in this case.
21. I acknowledge the comments in support of the proposed from interested parties. However, these do not mitigate or overcome the conflicts I have identified in relation to policies concerning character, appearance, living conditions and flooding.

Conclusion

22. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, sets out that determination must be made in accordance with the plan unless material considerations indicate otherwise. No development plan policies were cited in the reasons for refusal.
23. Nonetheless, the proposal has been found to conflict with the policies of the Framework, which is an important material consideration. This includes conflict on the grounds of character and appearance, on living conditions, and on flood risk. Accordingly, whilst the proposal accords with the adopted development plan, the Framework and Guidance, as material considerations, indicate permission should be refused.
24. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

C Parker

INSPECTOR