



Appeal Decision

Site visit made on 28 February 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/Z2260/W/22/3297707

2 Walnut Tree Cottages, Coldswood Road, Ramsgate CT12 5AH

- 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 Suzanne Burlace against the decision of Thanet District Council.
 - The application Ref F/TH/21/1537, dated 28 September 2021, was refused by notice dated 26 November 2021.
 - The development proposed is the erection of two dwellings with associated parking and external works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two dwellings with associated parking and external works at 2 Walnut Tree Cottages, Coldswood Road, Ramsgate CT12 5AH in accordance with the terms of the application Ref F/TH/21/1537, dated 28 September 2021, subject to the conditions appended to this decision.

Preliminary Matters

2. A signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990, dated 7 September 2022, has been submitted. I deal with this matter further below.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance; and
 - the effect of the proposed development on the Thanet Coast and Sandwich Bay Special Protection Area and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest.

Reasons

Character and appearance

4. The appeal site comprises a parcel of land occupied by 2 Walnut Tree Cottages, its large garden and a range of domestic outbuildings.

5. Properties surrounding the site are of a varied scale, period and design. Many appear to have undergone extensions and alterations over time, meaning that there is little consistency within the street scene. The existence of multiple outbuildings within the side and rear gardens of properties, which do not address the street frontage along Coldswood Road, together with prominent driveways and parking areas, contribute to this varied character. Consequently, the pattern of development within Coldswood Road is not one which could be described as coherent and the road does not have a strong or prominent street-facing frontage.
6. The proposed dwellings would be glimpsed from parts of Coldswood Road, including from the site entrance. However, the cul-de-sac nature of the road, combined with the significant setback of the proposed properties from it would mean that they would not be readily visible from public vantage points. From that perspective, the proposed dwellings would have little appreciable effect on the varied street scene.
7. I note that views of the proposed development would be possible from the private vantage points of some surrounding properties. However, from those perspectives, it would be seen amongst established and varied built form, including the many garages and outbuildings along Coldswood Road.
8. Although the footprint and height of the dwellings would be larger than a typical domestic outbuilding, their overall scale, one-and-a-half storey design and similar height to No 2 is such that they would remain reasonably modest within the plot. Accordingly, the proposed development would appear neither incongruous nor out of keeping within its setting. The extension of the existing driveway into the site would retain a private appearance and would not resemble an additional road. In any case, further details could be requested by condition. The extent of proposed hardstanding would not be dissimilar to other nearby plots.
9. For the above reasons, I conclude that the proposal would have an acceptable impact on the character and appearance of the area, in accordance with the relevant provisions of Policy QD02 of the Thanet District Council Local Plan (LP, adopted 2020). This policy, amongst other objectives, seeks to ensure that development proposals promote or reinforce the local character of the area. This is in a similar vein to the objectives of paragraph 130 of the National Planning Policy Framework (the Framework) insofar as development proposals should be sympathetic to local character.

Living conditions

10. The access to the proposed dwellings would be via the existing driveway, extended to run along the boundary with 3 Walnut Tree Cottages. Parking and turning areas would be provided next to each proposed dwelling.
11. The access would serve only two dwellings, and would therefore unlikely result in a significant level of vehicular or pedestrian activity. In any case, the position of the access and associated parking and turning areas, would be set away from the retained garden area of No 2 and the habitable rooms of both Nos 2 and 3. Moreover, an existing driveway and outbuilding exist along the shared boundary at No 3. As such, a similar arrangement already exists at that adjacent property. Ultimately, the proposed access, parking and turning area would not result in an unacceptable impact on the occupants of neighbouring

dwelling from a noise or disturbance perspective. The use of garden space associated with the proposed dwellings would likely be low level and would be consistent with the established domestic character of the surrounding area.

12. For the above reasons, I conclude that whilst the relationship between the appeal site and neighbouring properties would change, the proposed development would not harm the living conditions of the occupants of those properties, in accordance with the relevant provisions of LP Policy QD03. This policy seeks to protect the living conditions of existing residents. This is in a similar vein to the objectives of paragraph 130 of the Framework insofar as development proposals should protect the amenity of others.

SPA and SSSI

13. The appeal site falls within the 'Zone of Influence' (6km) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA), and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI). The Council has identified that the proposed development has the potential to have an adverse effect on the ecological integrity of these protected sites. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) states that a competent authority, before giving permission, must make an appropriate assessment.
14. The Council and Natural England set out that recreational disturbance is a potential cause of the decline in bird numbers in the SPA and that any new residential development is likely to have a significant effect on the protected site due to increased recreational pressure. I have no reason to disagree with those findings or that the proposed development could result in such harm.
15. The proposal is not directly connected with or necessary for the management of the protected site and on-site mitigation would not be possible. I must therefore consider whether measures could be put in place to avoid or mitigate the impact of the pressure arising from the proposed development on the protected sites, and the effectiveness of any proposed measures.
16. The Council's Strategic Access Management and Monitoring Plan (SAMM, 2016) provides a strategy to mitigate the potential impacts of new housing development on the protected sites. This includes wardening at the sites, signage and interpretation, and the monitoring of birds and visitors. A tariff has been developed and is applied to new housing built within the zone of influence.
17. The Council sets out that a financial contribution of £1,060, based on this tariff, is required for the proposed development to contribute to the established district-wide mitigation strategy. This is not disputed by the appellant, who has submitted a signed, dated and witnessed Unilateral Undertaking to secure the payment. Natural England has confirmed that financial contributions towards the SAMM would support relevant and effective mitigation measures to prevent harmful effects on the protected sites.
18. Based on the evidence before me, there is an appropriate mechanism in place that would secure a financial contribution to the SAMM, which I have found necessary to mitigate the impact of the proposed development on the negatively affected protected sites. There is no evidence before me to demonstrate that any other adverse effects exist.

19. Consequently, I conclude that the proposed development would not lead to unmitigated adverse effects on the integrity of the SPA or SSSI, in accordance with the relevant provisions of LP Policy SP29, which in summary seeks development to comply with the SAMM. This is in a similar vein to paragraph 182 of the Framework and the Habitats Regulations.

Other Matters

Unilateral Undertaking

20. As explained above, a signed Unilateral Undertaking has been submitted by the appellant. This would secure the provision of financial contributions towards the mitigation measures set out within the SAMM.
21. Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms. Secondly, they must be directly related to the development. Thirdly, they must be fairly and reasonably related in scale and kind to the development.
22. I am satisfied that the planning obligations would meet the requirements of the Framework and the CIL Regulations.

Conditions

23. The Council has provided a list of conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and have amended the wording of some, and combined provisions of others, without altering their fundamental aims.
24. I have included the standard condition requiring commencement within the relevant statutory period. I have imposed a condition requiring adherence to the relevant plans for certainty. I have imposed a condition in respect of parking areas for certainty and to ensure that an acceptable parking provision is provided.
25. I have imposed a condition in respect of external materials in the interests of the character and appearance of the area. However, I do not consider it necessary for details or samples of those materials to be submitted to the Council for approval. These are adequately illustrated within the approved plans. A condition requesting details of landscaping is also imposed in the interests of character and appearance. Conditions 6 and 7 are necessary in order to promote energy and water use efficiency.
26. Details in respect of the material used in the driveway would be dealt with under the landscaping condition and has not been imposed as a separate condition, as suggested. The suggested condition relating to visibility splays has not been imposed as there is no evidence before me specifically justifying the provision of visibility splays at the site.
27. The suggested condition removing permitted development rights is unnecessary and has not been imposed. There are no exceptional circumstances before me to warrant removal of permitted development rights in this case. The suggested condition in respect of mitigation payments has not been imposed as a signed Unilateral Undertaking has been provided to deal

with this. The legal certainty provided by this agreement makes it the best means of ensuring that these arrangements are effective.

Conclusion

28. For the reasons above, having regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be allowed subject to conditions.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01 Site Plans; 03 Proposed Site Layout Plan; 04 Unit 1 – Proposed Floor Plans; 05 Unit 1 – Proposed Elevations; 06 Unit 2 – Proposed Floor Plans; 07 Unit 2 – Proposed Elevations; and 08 Proposed Site Section/Elevations.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan nos. 05 Unit 1 – Proposed Elevations; 07 Unit 2 – Proposed Elevations; and 08 Proposed Site Section/Elevations.
- 4) The development hereby permitted shall not be occupied until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - indications of species, size and location of new trees, shrubs, hedges and grassed areas to be planted;
 - the treatment proposed for all hard surfaced areas; and
 - walls, fences and other means of enclosure proposed.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme to be submitted in writing.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 5) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with drawing no. 03 Proposed Site Layout Plan for the parking of 5 vehicles and manoeuvring space. Those spaces shall thereafter be kept available at all times for those purposes.
- 6) No dwelling hereby permitted shall be occupied until the relevant requirements of the level of energy performance equivalent to Level 4 of the Code for Sustainable Homes have been met and the details of the compliance provided to the local planning authority for approval in writing.
- 7) No dwelling hereby permitted shall be occupied until the Building Regulations 2010 (as amended) optional requirement (paragraph 2(b) of Part G2, regulation 36) to limit water usage to 110 litres per person per day has been complied with.