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# Appeal Decision

Site visit made on 13 July 2023

**by C Shearing BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 July 2023**

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**Appeal Ref: APP/Z2260/W/22/3299698**

**13 Canterbury Road, Margate CT9 5AQ**

- 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 MHP Ltd against the decision of Thanet District Council.
  - The application Ref F/TH/22/0222, dated 11 February 2022, was refused by notice dated 8 April 2022.
  - The development proposed is conversion of a domestic garage with rear/ side extensions forming a single storey one bedroom dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for conversion of a domestic garage with rear/side extensions forming a single storey one bedroom dwelling at 13 Canterbury Road, Margate CT9 5AQ in accordance with the terms of the application, Ref F/TH/22/0222, dated 11 February 2022, subject to the conditions set out in the schedule below.

## Preliminary Matter

2. The appeal is accompanied by a Unilateral Undertaking dated 5 December 2022 (the UU), relating to mitigation measures for Habitat sites. I have taken this into account in determining the appeal.

## Main Issues

3. The main issues are: (a) the effect of the proposal on the character and appearance of the area, and (b) the effect on Habitat sites.

## Reasons

### *Character and Appearance*

4. The site comprises an existing brick garage with pitched roof and a gable end which fronts onto Albert Road. The garage is set back from the road, with an area of hard surfacing and gates beyond its front elevation. The garage adjoins the rear gardens of a number of substantial period properties which address Canterbury Road to the north. To the south, it adjoins a commercial garage contained within a single storey building with pitched and flat roofs of varying heights and which extend in part to the edge of the footpath. Despite some uniformity in the buildings on the opposite side of Albert Road, the buildings on the eastern side of the road display a varied character and appearance.
5. The existing ridge height and eaves level of the garage would be largely retained. In views from Albert Road, particularly from oblique angles around the junction with Canterbury Road, it would therefore maintain its appearance

as a single storey building. It would also maintain a visual break between the buildings on Canterbury Road and the eastern side of Albert Road.

6. The addition of a gable feature to its front elevation would increase the perceived height and prominence of the building onto Albert Road. However, it would similarly have a low eaves level and would be set back from the building line of the commercial garage to the south as well as the front of its substantial metal roof. In combination, these attributes would not result in the building appearing visually prominent in the street. Given the varied character and detailing of the buildings on the eastern side of Albert Road, I do not find the design of the proposal would cause visual harm and I note that the use of a contemporary design in this location is not in dispute.
7. For the reasons given, the proposal would not cause harm to the character or appearance of the area. It would comply with policies SP35 and QD02 of the Thanet Local Plan 2020 (the TLP) which require, among other things, high quality design and respect for site context. The proposal would also comply with the design objectives of the National Planning Policy Framework (the Framework).

#### *Habitat Sites*

8. The Council refers to concerns in respect of population increases that could have a significant effect on the Thanet Coast and Sandwich Bay Special Protection Area (SPA), Ramsar site and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI). The SPA is protected under the Habitats Regulations<sup>1</sup> and the Framework affords a high level of protection to SSSIs and makes clear that Ramsar sites should be given the same level of protection. The proposal is not one connected with, or necessary to site management for nature conservation. As the proposal would increase the local population, there is a pathway for effect on the important interest features of those sites, and adopting a precautionary approach, the likely effects would be significant either alone or in combination with other plans and projects.
9. The SPA is used by a large number of migratory birds and supports populations of European importance including Turnstone, European Golden Plover and Little Tern. The objectives of the site include ensuring that the integrity of the site is maintained or restored as appropriate and key threats include outdoor sports, leisure and recreational activities. The Ramsar site is similarly designated for supporting bird species of international importance with recreational disturbance among the factors considered to have a major impact on its ecological character. Research has shown that recreational activity causing the disturbance of birds close to roosts, particularly with dogs, are the most common disturbance stimuli, disrupting bird behaviours and, in turn, the long-term viability of the bird populations.
10. The proposal would be within the zone of influence of the protected sites and the additional population arising from the proposal would increase recreational pressure, in turn having a likely significant effect on the integrity of those sites. The Council have a strategic approach to mitigation for recreational pressure, through securing financial contributions towards the Strategic Access Management and Monitoring Plan (SAMM), supported by Natural England. This contains measures such as wardening, signage and increased education, and

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<sup>1</sup> The Conservation of Habitats and Species Regulations 2017

contributions to those measures are sought on a tariff basis. Based on the evidence, those measures would ensure appropriate mitigation for the proposed development.

11. The UU would ensure that the required contribution of £202 were paid to mitigate for the effects of the proposal, in line with the SAMM. The UU was amended in response to the Council's concerns, and includes clarification of title deeds and the owner, and has been signed accordingly. Based on the evidence, I have no reason to doubt that the document would be capable of securing the required contribution. As such, the UU enables it to be established that the proposal would not adversely affect the integrity of the Habitat sites. For the reasons given, the proposal would comply with policy SP29 of the TLP which relates to implementation of the SAMM, and the objectives of the Framework insofar as they relate to Habitat sites.

### **Other Matters**

12. The Margate Seafront Conservation Area (MSCA) exists further to the north and south, but does not include, nor directly adjoin the appeal site. Given its distance from the proposal and the presence of substantial intervening structures, the proposal would not form part of the setting of the MSCA.
13. In reaching my conclusions on the appeal, I have had regard to the earlier appeal decision relating to the site<sup>2</sup>, and consider the concerns of that Inspector to have been adequately addressed. I note the concerns relating to natural lighting received by the neighbouring windows and garden. Given the limited change to the overall height and bulk of the building, I do not find that unacceptable harm to natural lighting would occur. I also note the comments of the earlier Inspector regarding these matters, which related to a proposal for a taller building. In the absence of substantive evidence to the contrary, any increase in local parking pressures would not be harmful to the safety and function of the highway. I am unable to take matters of property value into account, as set out in Planning Practice Guidance.

### **Conditions**

14. I have considered the conditions put forward by the Council and I have had regard to the advice in Planning Practice Guidance and the Framework in respect of conditions. In addition to the time limit condition, I have imposed a condition requiring the development to adhere to the submitted drawings to provide clarity for the parties.
15. Given the proximity to the existing commercial car garage, a condition is necessary to secure details to protect future occupants from noise disturbance. This would need to be complied with prior to commencement to ensure those measures are incorporated at an early stage. I have amended the condition to exclude measures relating to the proposed external spaces, given the proximity of other residential gardens.
16. For environmental reasons, and to secure compliance with the development plan, the development should achieve the equivalent of level 4 of the Code for Sustainable Homes and the specified standard for water efficiency. Given the relationship of the northern side wall of the proposal to the adjoining residential gardens, a condition restricting the insertion of windows in that wall is

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<sup>2</sup> Appeal decision APP/Z2260/W/20/3262116

necessary to protect privacy. In the interests of highway safety, a bound surface should also be conditioned for the areas of parking close to the highway.

17. In the absence of evidence relating to the need to remove permitted development rights for Classes A, B, C and E of the GPDO<sup>3</sup> and having regard to the advice in Planning Practice Guidance on this matter, I do not find such restrictions to be reasonable. As the supporting drawings annotate the use of brickwork and roofing to match the existing, it is not necessary to condition further details of materials.

## **Conclusion**

18. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is allowed.

*C Shearing*

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: 1541/1A, 1541/10A, 1541/11A, 1541/12A.
- 3) Prior to the commencement of development, an Acoustic Design Statement shall be submitted to and approved in writing by the local planning authority. This shall demonstrate how an acceptable level of internal noise within the development shall be achieved. The development shall be carried out in accordance with the approved details and shall be so maintained thereafter.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the north facing side elevations of the building.
- 5) The parking area hereby approved shall incorporate a bound surface material for the first 5 metres from the edge of the highway.
- 6) The development shall achieve a standard of energy efficiency equivalent to level 4 of the Code for Sustainable Homes.
- 7) The development shall meet the technical standard for water efficiency of 110 litres/ person/ day.

## **End of Schedule**

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<sup>3</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 as amended