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# Appeal Decision

Site visit made on 6 June 2023

**by A James BSc (Hons) MA MSc MRTPI**

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

**Decision date: 26<sup>th</sup> July 2023**

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**Appeal Ref: APP/L2250/W/22/3301024**

**Land to rear of Edward Road, Folkestone CT19 5RJ**

- 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 Alleyne against the decision of Folkestone and Hythe District Council.
  - The application Ref 21/2081/FH, dated 11 October 2021, was refused by notice by dated 13 December 2021.
  - The proposed development is described as 'single storey house with two bedrooms on the site of a derelict set of storage garages.'
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## Decision

1. The appeal is allowed and planning permission is granted for single storey house with two bedrooms on the site of a derelict set of storage garages at Land to rear of Edward Road, Folkestone CT19 5RJ in accordance with the terms of the application, Ref 21/2081/FH, dated 11 October 2021, and subject to the conditions in the attached schedule.

## Preliminary Matters

2. The appellant refers to the proposal description used on the decision notice within their appeal form and statement. However, I have taken the site address and proposal description from the application form, as I consider these more accurately reflect the location and description of the development. I have omitted reference to words that are not development from the description.
3. There is a typographical error in reason for refusal 3. Nevertheless, it is clear from the Council's case that the Council consider the proposal would have an unacceptable impact on living conditions, not an 'acceptable' one. The appellant has addressed all alleged harm to living conditions within their submission and has not been prejudiced by this error.
4. Following determination of this planning application, the Folkestone & Hythe District Council Core Strategy Review (CSR) was adopted in March 2022 and now forms part of the development plan. I am required to determine the appeal on the basis of the development plan at the time of my decision. The Council and appellant refer to the adoption of the CSR within their statements and I have taken their comments into consideration.

## Main Issues

5. The main issues in this appeal are the effect of the proposed development on:
  - (i) the character and appearance of the area;

- (ii) the living conditions of future occupants of the proposed dwelling, with particular regard to outlook, privacy and provision of outdoor amenity space;
- (iii) the effect of the proposed boundary treatment on the living conditions of occupants of 25 Bonsor Road (No 25), with particular regard to outlook and light to their private amenity space; and,
- (iv) whether the proposal would provide adequate provision for parking.

## **Reasons**

### *Character and appearance*

6. The appeal site relates to a backland plot, which is surrounded by dwellings and their gardens. The site consists of single-storey, flat roofed garages and an area of hardstanding. Whilst the appeal site is relatively flat, the surrounding land varies in level, with properties to the south and east on lower level land.
7. The area is predominately characterised by 2 storey, brick built, period terraced and semi-detached properties, which have modest-sized rear gardens. The existing properties vary in design and include features such as bay windows, gables and decorative barge boards. Whilst the existing garages appear subservient to the adjacent residential development, they are of low architectural merit and their dilapidated condition is harmful to the character and appearance of the area.
8. The proposal seeks to provide a new dwelling of a contemporary design, with a courtyard garden. The area has a fine urban grain and existing dwellings typically extend up to their side boundaries. The existing garages already adjoin part of the boundaries of the site, with no buffer or intervening landscape. The extent of built form and height of the proposed dwelling would not be dissimilar to that of the existing garages and would not result in overdevelopment of the site. The area of outdoor amenity space would also be similar in size to that of adjacent properties. Consequently, the proposal would not appear cramped or out of keeping with the existing pattern of development in the locality.
9. Although the proposal would differ in character and appearance to the more traditional 2 storey dwellings in the locality, the proposed brick finish and use would complement and integrate well with neighbouring dwellings. The high quality design, with green roof would enhance the appearance of the site, particularly when viewed from neighbouring properties. Given that the site is set back behind existing dwellings and is largely screened from the public realm, the proposal would not appear prominent in the street scene. It would also not be viewed within the same street scene as the adjacent 2 storey dwellings. The proposed development would appear subservient to the surrounding 2 storey development and would make effective use of this underutilised, previously developed site.
10. For the reasons given above, I conclude that the proposal would not be harmful to the character and appearance of the area and would comply with Policy HB1 of the Folkestone & Hythe District Places and Policies Local Plan (Local Plan) September 2020. This policy amongst other matters requires that development makes a positive contribution to its location and surrounding, whilst respecting existing buildings and land uses. The proposal would also comply with the

National Planning Policy Framework (the Framework) which seeks to achieve well designed places and make effective use of previously developed land.

*Living conditions of future occupants*

11. Whilst the properties on Albert Road are in fairly close proximity to the appeal site, the properties closest to the proposed courtyard garden have no first floor rear facing windows on their outriggers that would overlook the proposed outdoor amenity space. There are first floor rear facing windows on the principal part of this terrace, but these are sited further away, and the outriggers would partially obscure direct views.
12. The properties to the south are on lower level land than the appeal site and would not cause a harmful level of overlooking to the proposed dwelling or its garden. The courtyard garden would be partially screened in views from the north and from No 25 by the proposed built form and boundary treatment. The proposed rooflights would be visible from the first floor windows of neighbouring properties; however, the majority of these rooflights are shown to have opaque glazing and do not serve habitable rooms.
13. The appeal site lies in a densely built up area, where mutual overlooking is commonplace. Whilst the proposed dwelling and its garden may experience some overlooking, this would not be dissimilar to the levels experienced by occupants of neighbouring properties. Consequently, the proposal would not result in a harmful level of overlooking to future occupants.
14. The proposal has been designed so that the main rooms look out onto the attractive courtyard garden, which is a reasonable size. The proposal would provide a satisfactory standard of outlook for future occupants.
15. The Council agree that a degree of leniency can be applied in respect to the external space standards, but each case must be assessed on its own merits having regard to the character of the site and its surroundings. The area of outdoor amenity space proposed would not be dissimilar in size to some of the adjacent properties. The proposed courtyard garden would span most of the width of the dwelling and further amenity space would be provided adjacent to the access. Overall, a reasonable size and good quality area of outdoor amenity space would be provided that makes best use of the land available.
16. For the above reasons, I conclude that the proposal would not be harmful to the living conditions of future occupants of the proposed dwelling. The proposal would comply with Policies HB1 and HB3 of the Local Plan. These policies amongst other matters require that development does not lead to an adverse impact on the amenity of future occupants, taking account of loss of privacy and outlook, and that private gardens are provided for new dwellings. Furthermore, the proposed development would comply with the Framework, which requires that developments provide a high standard of amenity for future users.

*The effect of the boundary treatment on the living conditions of No 25*

17. No 25 is sited on lower level land than the appeal site. The proposed brick wall would be a similar height to the wall of the existing garages that adjoins the boundary with No 25. The proposal would reduce the length of brick wall adjacent to this property, which would reduce the dominance of this wall and feeling of enclosure to part of the rear garden.

18. The proposal also seeks to erect a close-boarded fence adjacent to the remainder of the boundary with the garden of No 25. At present, there is a low brick wall along this boundary and there are views available into the garden and dwelling of No 25 from the appeal site. As the appeal site is on higher level land than No 25, the proposed close-boarded fence would result in an increased sense of enclosure for this property and cause some overshadowing. However, the proposed boundary treatment would not appear unduly overbearing to occupants of No 25. Furthermore, the benefits of the scheme in terms of improved privacy, reduction in extent of high walling and less noise and vehicular movements when compared to the garage use (should that be recommenced) would mean overall that the proposal would not be harmful to the living conditions of occupants of No 25.
19. For the above reasons, I conclude that the proposed development would not be harmful to the living conditions of occupants of No 25, with particular regard to outlook and light. The proposal would comply with Policy HB1 of the Local Plan, which requires that development does not lead to an adverse impact on the amenity of neighbouring occupants in respect to loss of light and outlook. The proposal would also comply with the Framework, which requires that developments provide a high standard of amenity for existing and future users.

### *Parking*

20. The appeal site is located within a Controlled Parking Zone (CPZ). At the time of my site visit (late morning), there were plenty of car parking spaces available. However, I appreciate that this is only a snapshot in time and at other times, the parking demand may be greater. Both parties agree that the site is located within an area which has good access to services, facilities and public transport links. Given the provision of cycle parking on site and the other sustainable modes of transport available in the locality future occupants would have alternatives to using a private motor vehicle.
21. The proposal would utilise the existing access, which currently provides access to 5 garages. It appears from the evidence before me and my site visit that the garages have not been used for parking for some time. The proposal seeks to provide 2 car parking spaces on the driveway, which would accord with Policy T2 of the Local Plan which supports tandem on-plot parking for new dwellings. Although the access is narrow, the proposed plans show that there would be sufficient space for a pedestrian, cyclist or wheelie bin to pass a parked vehicle. Whilst passengers of the vehicle may need to exit the car before it is parked, this could be done before the car is parked. As a result, the proposal would provide sufficient and usable parking provision for the proposed dwelling.
22. Even if future residents do not use the proposed parking spaces, the proposal would at most result in a small increase in parking demand, which would have a negligible impact on on-street parking in the locality. There is no clear evidence before me to indicate that the CPZ is at capacity and could not accommodate this small increase. Consequently, the proposal would not result in an increase in on-street parking demand that would result in annoyance or inconvenience for neighbouring residents.
23. The proposal is likely to generate less vehicular movements per day when compared to the garage use, should that be recommenced. As a result, the proposal would not be harmful to highway safety. There is no detailed information before me to indicate that there are current issues with highway

safety at or near the site. Furthermore, the residual cumulative impacts on the road network would not be severe. I therefore find no conflict with paragraph 111 of the Framework.

24. The Council's delegated report refers to conflict with IGN3. This document does not form part of the reason for refusal, and it is not clear from the evidence before me where the conflict arises. Nevertheless, the Council has confirmed that the number of parking spaces proposed is acceptable.
25. For the above reasons, I conclude that the proposal would provide an acceptable level of parking provision and would not be harmful to highway safety. The proposal would comply with Policy T2 of the Local Plan, which requires that developments provide sufficient parking for residents and visitors that is positioned close to people's homes; that schemes show a preference for tandem on-plot parking; spaces are of sufficient size to comfortably host a larger car; and, on-plot spaces have sufficient space for the movement of wheelie bins to a collection point.

### **Other Matters**

26. Concerns have been raised by third parties in respect of matters not addressed above, including: that the access and Edward Road are too narrow for construction vehicles or emergency vehicles; insufficient parking for construction vehicles; increased congestion; disruption to neighbouring properties; encroachment onto neighbouring land; harm to pedestrian safety; land stability; and, impact on trees. Based on the evidence before me and my site visit, I find no reason to reach a contrary conclusion to the Council on these matters. Third parties also recommend the site is retained for parking or storage. There are no alternative schemes before me, and I am required to make a decision based upon the merits of this scheme.
27. Although not raised in the reasons for refusal, the Council and third parties raise concerns that the proposal would appear overbearing and result in a harmful level of overlooking to neighbouring properties. Given that the proposal is for a single storey dwelling of a similar size to the existing development, the proposal would not appear unduly overbearing. Furthermore, the single storey nature of the dwelling and its proposed boundary treatment, would mean that there would not be a harmful level of overlooking to occupants of neighbouring properties.
28. The Council considers that Policies SS1 and SS3 of the CSR are relevant to this appeal. However, they have not alleged any conflict with these policies. It is therefore not necessary for me to consider these policies further.

### **Conditions**

29. In addition to the standard time limit condition, in the interests of certainty, I have included a condition specifying the approved plans. To prevent issues relating to pollution and to protect the health of future occupants and nearby residents, a contaminated land condition is required; this pre-commencement condition has been agreed with the appellant. In order to protect the character and appearance of the area, I have imposed a condition regarding external materials. In the interests of maximising resource efficiency, a condition is required regarding water consumption.

30. As details of boundary treatment, bin storage and cycle parking are shown on the submitted plans, it is not necessary to require further details by condition. There is no clear justification before me to demonstrate why it is necessary to remove permitted development rights and accordingly such a condition would fail to comply with paragraph 54 of the Framework.

### **Conclusion**

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

*A James BSc (Hons), MA, MSc, MRTPI*

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 Location Plan; 02: Existing Block Plan; 03: Proposed Block Plan; 04: Existing Plans; 05: Existing Roof Plans; 06: Existing Elevations; 07: Proposed Plans; 09: Proposed Elevations; 10: Proposed Sections 1 of 2; 11: Proposed Sections 2 of 2; 12: Axonometric External View; 13: Axonometric Internal View; and, 14: CGI Internal View.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- 4) Prior to the commencement of above ground works, details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 5) The dwelling hereby approved shall not be occupied until details have been submitted to and approved in writing by the local planning authority, demonstrating that the dwelling can achieve maximum water consumption of no more 110 litres per person per day. The development shall be carried out in accordance with the approved details.