
Appeal Decision

Site visit made on 2 August 2023

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 1 September 2023

Appeal Ref: APP/Z2260/W/22/3307744

Land at the rear of No 21 Nash Road, Margate, Kent CT9 4BT

- 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 Alan Porter against the decision of Thanet District Council.
 - The application Ref F/TH/22/0244, dated 10 February 2022, was refused by notice dated 18 May 2022.
 - The development proposed is the erection of a single detached two story dwelling and detached double garage.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in the appeal are:
 - the effects of the proposed development on the character and appearance of the area;
 - the development's effects on any wildlife present on the site;
 - and the effects on car parking in the area.

Reasons for decision

Character and appearance

3. In the Thanet Local Plan (the TLP), adopted in July 2020, Policies QD02 and SP35 both require a high quality of design in all developments. More specifically, Policy QD02 seeks also to ensure that schemes respect and reinforce local character, relating well to the form and layout of adjacent areas; and that new development is coordinated and integrated with their surroundings, especially with regard to their external spaces and landscaping. In the National Planning Policy Framework (the NPPF), paragraph 130 requires, amongst other things, that developments should function well and add to the overall quality of the area, be visually attractive, and establish a strong sense of place.
4. In the present case, the appeal site comprises a roughly triangular parcel of land lying to the rear of properties in Nash Road. Although, in terms of ownership, the site has evidently been associated for many years with No 21, it also extends behind Nos 17 and 19. Its former use appears to have included keeping chickens, growing vegetables, and parking vehicles; these activities have now largely ceased. Pedestrian access is available via No 21's rear garden. Vehicular access is taken from an unsurfaced track which runs from

between Nos 11 and 15 Nash Road, and thence along the rear boundaries of the houses in Empire Terrace, terminating in a block of garages. Beyond this is an extensive area of longer gardens, many containing garages, workshops and the like; and also a recent new development of seven dwellings known as Turners Close, which has a separate access from an entrance further along Nash Road.

5. The appeal proposal would see the site developed with a 4-bedroomed, 2-storey, detached house, set across the width of the plot, with gardens on either side, a garage and parking spaces. Given the site's current neglected condition, it is difficult to disagree that some form of development would improve the appearance of the site itself, and make better use of the land.
6. However, the concerns raised by the Council relate primarily to the site's relationship to its surroundings. The existing development in Nash Road consists of a mixture of terraced and semi-detached properties in a long, straight, linear row. Empire Terrace, although shorter, has a single row of houses in a similar arrangement. The development now proposed would not front onto this established street pattern; instead it would involve placing a single new dwelling, somewhat randomly, within part of the backland area behind Nash Road, served only by the existing, poor-quality shared private track. In this position, the new dwelling would have no relation to any existing street frontage, but yet nor would it create any 'sense of place' in its own right. Rather, it would appear as an incongruous, incremental and un-coordinated development, which would fail to integrate with the surrounding pattern. As a result, I find myself in agreement with the Council, that the scheme would harm the area's character and appearance.
7. I appreciate the appellant's view that the appeal scheme has some similarities to the Turners Close development. But in that case, it seems to me, the scheme was large enough to be able to establish its own identity and sense of place, and indeed in my view it has done so, by installing a well-surfaced access road, with attractive, high-quality materials and landscaping. The present proposal does not appear to offer a similar prospect. The existing access track to the appeal site is rutted, potholed and muddy, and surrounded by unsightly garages and fences. Although it is stated that the track would be 'refurbished', there is no indication as to what is envisaged, nor whether such works could be delivered in practice, in terms of the necessary legal rights. As the track is outside the application site, improvements to it cannot be secured by condition. On the information before me, there is nothing to suggest that the approach to the appeal site could be transformed to such an extent that would result in the development having its own sense of place, or that would compensate for its lack of relationship to the existing street pattern.
8. In addition, whilst design is always to some extent a subjective matter, it seems to me that in this case the design of the proposed new dwelling is not of a high quality. In particular, the elevations seem to me to be rather poorly composed, with little coordination in terms of window sizes and positions. I appreciate that an attempt has been made to balance the front, with the inclusion of an indented brickwork panel, to give the impression of a false window, but otherwise the design lacks any articulation, resulting in what in my view would appear as little more than a bland and featureless, rectangular box-shaped building. The quality of the design therefore does nothing to redeem

the scheme's other shortcomings that I have identified. This reinforces my view as to the development's adverse effects on the locality.

9. For these reasons, I conclude that the character and appearance of the locality would suffer significant harm. In this regard the proposed scheme would conflict with the relevant provisions of TLP Policies QD02 and SP35, and NPPF paragraph 130, that I have referred to above.

On-site wildlife

10. The vegetation on the appeal site comprises some short lengths of hedge, some smallish trees and a patch of quite short, rough grass. As the Council's ecological advisor points out, these may have some potential to support wildlife, and in the absence of any professional ecological appraisal, the possibility of protected species cannot be ruled out. But nevertheless, the site is small, and the habitats and features present do not appear to include anything other than the most common types for an urban area. The land is not subject to any relevant designation, nor close to any designated site. Consequently, there seems no particular reason to expect that a formal ecological assessment, at the pre-determination stage, would be likely to reveal anything that could potentially affect the decision as to whether or not the development should be permitted.
11. Conversely, there seems equally no reason why an appraisal undertaken at the post-determination stage, prior to the start of construction, would not be capable of identifying any features of interest, and potential measures for mitigation or enhancement, if required. Such an appraisal, and the implementation of any necessary measures arising from it, could be secured adequately by condition. In the present case, this seems to me a more proportionate course of action.
12. I appreciate the Council's desire for fuller information prior to determination, and clearly there will be many cases where that approach is justified. But it does not follow that this will be so in every case. This seems to me to be acknowledged in the terms of TLP Policy SP30, where the requirement for an ecological assessment is stated to apply to sites where important biodiversity assets may be affected. As far as I can see, nothing in the relevant policies of either the TLP or the NPPF suggests that a formal ecological appraisal should be required, prior to determination, in all cases.
13. In this context I also note that, with regard to species and habitats protected by the provisions of the Wildlife and Countryside Act 1981 and related legislation, these statutory protections are not overridden by the grant of planning permission.
14. For these reasons, I am satisfied that in the present case the need for information regarding the site's ecological value, and any consequent need for mitigation and enhancement, could have been dealt with through one or more suitable conditions. On this basis, I conclude that the proposed development would not be likely to give rise to any unacceptable impacts on any on-site wildlife, nor any conflict with relevant policies including SP30.

Parking

15. TLP Policy TP06 requires car parking for new residential development to be provided in accordance with Kent County Council guidance. In the present

case, according to the officer's report, the resultant requirement is for two parking spaces. In the submitted plans, the development proposes a double garage, with what is described as a parking space in front of it, plus a further block-paved hardstanding area adjacent to the proposed new dwelling, providing two further spaces.

16. The proposed space in front of the garage would be irregularly shaped, and so would not fully comply with the required standard dimensions, but given its location adjacent to the shared accessway, it seems unlikely that there would be any obstruction to the opening of car doors, as suggested by the Council. The use of this space would block access to the proposed garage, but this would not prevent the use of the garage for the parking of less frequently-used vehicles. I note the Council's view that garages should not be counted, but the basis for this contention has not been explained.
17. In any event, the Council does not appear to dispute the two spaces that would be located next to the dwelling, which would be sufficient on their own to meet the stated requirement. I appreciate that these spaces have in the past been used to serve the existing house at No 21 Nash Road, but that property now has its own forecourt parking at the front of the house.
18. Given the level of parking and garaging proposed, there seems no reason why the proposed development should be likely to give rise to any additional parking pressures, either in Nash Road or other nearby streets, or in the shared access track to the rear of Empire Terrace.
19. I conclude that the development would have no adverse effects on car parking in the area, and would comply with TLP Policy TP06.

Other matters

20. It seems not to be disputed that a contribution is required towards mitigation for the potential recreational impacts of the appeal proposal, in combination with other local developments, on nearby sites subject to national and international designations for their special ecological value. A legal undertaking to this effect has been entered into. The most recent version of this, dated 7 September 2022, appears to overcome the error identified in the Council's officer report. In the absence of any indication to the contrary, it appears to me that the undertaking would provide the necessary mitigation, and that the development would therefore not be likely to give rise to any significant adverse effects on the relevant protected areas.
21. The development would add to the local housing stock, and potentially also to the supply of sites for self-build development. These are benefits counting in favour of the scheme. However, in the absence of any evidence as to whether local needs are already being met, the weight that attaches to these benefits is limited. The development would also have some benefits to the local economy, but again without further detail the weight that this carries is limited.
22. There may be some merit in the appellant's contention that the development would improve the security of persons using the shared access track, due to increased natural surveillance. But to my mind this would be offset by the lack of security that would be suffered by the occupants of the new dwelling itself, in having to use an access that is unlit, potholed and unsurveilled by any other properties. On balance, the lack of security and the poor environment of the

access to the proposed development, resulting in poor living conditions at the site, weighs heavily against the appeal proposal.

23. The appellant contends that the appeal site constitutes previously developed land (PDL). But it is not clear what this claim is based on. Part is occupied by a garage, which is a permanent structure. But it seems doubtful whether the remainder could be considered to be the curtilage of that structure. There is conflicting evidence as to whether it was ever part of No 21's garden land, but given the site's urban location, this would not necessarily assist the argument in any event. There is no doubt that the site is underused or vacant land, and this counts strongly in favour of some form of development, but not necessarily in the form now proposed. In the circumstances, none of these matters are conclusive.
24. I note the appellant's criticisms of the Council's handling of the application. But these matters would be more relevant to an application for costs, and no such application is before me. In any event, my decision on the appeal must be based on the planning merits.

Conclusion

25. For the reasons identified, the proposed development would cause significant harm to the area's character and appearance, contrary to Policy QD02.
26. The scheme would have some minor benefits in terms of housing provision, including an opportunity for a self-build plot, and some economic benefits, but these are offset by the poor living conditions at the proposed dwelling due to the lack of security and the poor environment. Overall, the benefits are not sufficient to outweigh the harm that would be caused, and the resultant conflict with the development plan.
27. Having considered all the other matters raised, none outweighs the above conclusion. The appeal is therefore dismissed.

J Felgate

INSPECTOR