



Appeal Decision

Site visit made on 22 May 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

Appeal Ref: APP/J2210/W/23/3330975

232 Reculver Road, Herne Bay, Kent CT6 6QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Brennan Courtney against the decision of Canterbury City Council.
 - The application Ref is CA/23/01045.
 - The development proposed is the change of use of outbuilding to dwelling together with dormer to front elevation, rooflights to rear elevation and hip-to-gable extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development in the Council's decision notice and appellant's appeal form, as this more succinctly describes that for which permission is sought.

Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of future occupiers, with specific regard to the size of the accommodation; and c) the Thanet Coast and Sandwich Bay Special Protection Area (SPA).

Reasons

Character and Appearance

4. The appeal site comprises part of the rear garden of No.232 Reculver Road, a semi-detached two storey dwelling. The site would be accessed via the existing private drive from Reculver Road.
5. Despite variation in architectural design, the area is characterised by one and two-storey detached and semi-detached properties fronting the highway with reasonably sized rear gardens. The rear garden of No. 232 contains a large, existing detached outbuilding. Many other neighbouring gardens contain outbuildings of varying sizes but collectively they do not unduly harm the open rear garden environment that positively contributes to the wider character of the area.
6. Whilst the proposal would involve the reuse of an existing outbuilding, the change of use also includes associated physical works, including a roof dormer. Whilst the Council has not objected to the resulting appearance of the building

per say, the extended structure together with its own curtilage, would not retain the outward appearance or presence of an incidental outbuilding.

7. Although wider views of the building would be limited, it would be identifiable as an isolated dwelling in a backland position with an uncharacteristically small plot with minimal road frontage. Furthermore, the existence of a new independent dwelling would also be identifiable from the additional comings and goings than would ordinarily occur.
8. Consequently, not only would the proposed scheme appear cramped and awkward, but it would also be incongruous within its immediate context, causing harm to the prevailing character and appearance of the surroundings.
9. As a result, even though the proposal would be for a dwelling in a residential area, I find that it would cause significant harm to the character and appearance of the local area. Consequently, it is contrary to Policy DBE3 of the Canterbury District Local Plan 2017 (Local Plan). This policy includes that development should protect or reinforce and positively contribute to the distinctive local context of the site to create attractive places having regard to the townscape character and layout.
10. The proposal would also be contrary to Paragraph 135 of the National Planning Policy Framework (the Framework), which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions

11. The 'Technical Housing Standards – Nationally Described Space Standard' (NDSS) provide that for a 1-bedroom, 2-storey dwelling, with bed space for 2 persons, a minimum gross internal floor area of 58m² must be provided. The Council refer to 50m², but this is for a single storey dwelling, whereas the proposal involves the provision of a first floor. By virtue of Policy DBE4 of the Local Plan, the Council has adopted the requirements of the NDSS.
12. The appellant does not dispute the contention that the proposed floorspace would be 48m². This falls short of the minimum requirements of the NDSS and thus the Local Plan. This weighs heavily against the scheme.
13. Notwithstanding the appellant's contention that the rooms could accommodate furniture and that the building could function as a dwelling, a minimum size requirement is established for a reason. I am therefore satisfied that by failing to meet the minimum standard, the unit would feel cramped to future occupiers. This would cause harm to their living conditions and so the proposal would be contrary to Policies DBE3 and DBE4 of the Local Plan. These require, amongst other things, that developments comply with the NDSS and have consideration for the amenity of future occupiers of buildings.
14. The proposal would also be contrary to Paragraph 135 of the Framework, which amongst other things, seeks to ensure developments create a high standard of amenity for existing and future users.

Thanet Coast and Sandwich Bay SPA

15. The appeal site is within a zone of influence of the Thanet Coast and Sandwich Bay SPA. Such European sites are designated to protect habitat for important over-wintering bird species. Alone or in-combination with other development

the net dwelling gain in this case would have a likely significant effect on the integrity of habitat and species in the SPA due to recreational disturbance by residents visiting them.

16. Mitigation of such effects is usually achieved through the provision of a unilateral undertaking (UU) to secure a financial contribution towards implementing access management measures in accordance with the Council's adopted strategy. There is no suggestion that mitigation is not required in this case, but no UU or other mitigation has been submitted for consideration. Instead, the appellant suggests that a pre-commencement condition would overcome the above concerns.
17. However, the Planning Practice Guidance is clear that a planning condition cannot seek a financial payment or require the entering into of a UU or other legal agreement. Furthermore, a condition requiring an alternative, but as-yet unspecified form of mitigation, would not meet the high bar required to establish that harm to the SPA would be avoided. Consequently, in this situation, I am unable to conclude that there would be no adverse effects on the integrity of the SPA.
18. Therefore, the proposal would be contrary to Policies SP1, SP6 and LB5 of the Local Plan. These collectively seek, amongst other things, to ensure designated sites are protected from proposals harmful to their designation and seek mitigation measures as appropriate. It would also conflict with Section 15 of the Framework which seeks to conserve and enhance the natural environment.

Other Matters

19. The proposal is said to accord with certain parts of the development plan, such as being an efficient use of the land or retaining landscaping. However, compliance with certain aspects of the policies does not mean that the proposal as a whole is acceptable and does not absolve me from making an assessment as to its effects in regard to the main issues of the case.

Conclusion

20. The proposal would cause harms that would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal is dismissed.

Stewart Glassar

INSPECTOR