



Appeal Decision

Site visit made on 7 August 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2024

Appeal Ref: APP/X2220/W/24/3337061

46 Herschell Square, Deal, Kent CT14 7SU

- 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 & Mrs J Horne against the decision of Dover District Council.
 - The application Ref is DOV/23/01188.
 - The development proposed is the demolition of garden building and erection of one two-bedroom chalet bungalow and formation of new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Draft Dover District Local Plan (Draft Local Plan) is at an advanced stage. Consultation on the Main Modifications ran until 24 May 2024. Minor changes are proposed to the wording of Policies NE3 and PM1. The proposed modifications have no bearing on this appeal.
3. While the Draft Local Plan has yet to be adopted, there is a high probability that the policies will eventually be adopted as originally worded or as proposed to be modified. Therefore, having regard to paragraph 48 of the National Planning Policy Framework (the Framework), they can generally be given a considerable amount of weight.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of future residents and neighbouring occupiers.

Reasons

Character and Appearance

5. The existing dwellings in Herschell Square comprise a variety of building sizes and designs. Similarly, plot sizes appear to vary as does the space between buildings. Nevertheless, there is a clear difference between the central area of the square in which the appeal site is located and the outer sides. The central area displays a more open and spacious character, with all the buildings being bungalows or chalet bungalows. The spacing between these properties is generally greater than the spaces between the properties on the outer sides of Herschell Square.

6. The proposed dwelling would be a chalet bungalow. As its styling would be similar to the properties either side of it, this in itself is not objectionable. Nevertheless, the replacement of the existing single storey outbuilding with a chalet bungalow would represent a harmful diminution of the spacious character of this part of the Square.
7. The proposed dwelling would not be as large as those either side, but this would not overcome it appearing as having been squeezed in, when compared to its immediate neighbours. The positioning of the dwelling slightly forward of No.46, as well as the smaller plot size and reduced rear garden to the host property would be contributory factors to this overall finding.
8. I am therefore satisfied that the proposal would harm the character and appearance of the area. As such, it would conflict with Policy PM1 of the Draft Local Plan which requires that developments, amongst other things, respect the local character and context and make a positive contribution to the visual character of the area.
9. The proposal would also be contrary to Paragraph 135 of the Framework, which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions

10. The proposed dwelling would, at its closest, be sited just over 2.3m from the side boundary with No. 47 and approximately 3.75m from the boundary with Denmor, which would be to the rear of the proposed dwelling.
11. The windows serving the main living accommodation on the proposed ground floor would directly face these boundaries. Given the distances to these boundaries and the orientation of the dwelling, the outlook from these windows would be poor and create a sense of enclosure for future occupants.
12. Denmor is similarly positioned close to the shared boundary with the appeal site and has a shallow rear garden area. As it is to the south of the appeal site there would be no unacceptable overshadowing as a result of the appeal proposal. However, the introduction of the dwelling would, as a result of its position and size, create a somewhat uncomfortable physical relationship between the two buildings. This would have an overbearing and intrusive impact in terms of outlook from this neighbouring residence.
13. Bedroom 2 of the proposed dwelling would be served by a single rooflight. This would offer some views into the neighbour's rear garden area. Whilst some mutual overlooking could be expected in a suburban area, when coupled with the proximity, it would heighten the effect and further underline the unneighbourly relationship that would be created between the two buildings.
14. The dwelling as a whole would exceed the minimum floorspace requirement for a two-bedroom, two storey dwelling, as set out in the Nationally Described Space Standards. Even putting aside any concerns as to whether bedrooms 1 and 2 would meet the minimum sizes for double and single bedrooms respectively, the overall internal floorspace is not a matter which weighs heavily in favour of the scheme, particularly given my findings above.
15. Overall, I find that the proposal would result in harm to the living conditions of future residents of the dwelling and to the existing occupiers of Denmor. The

proposal would therefore be contrary to Policy PM1 of the Draft Local Plan which, amongst other things, requires that developments are of a high quality and are compatible with neighbouring buildings.

16. Similarly, the development would conflict with the objectives of the Framework, which seek to ensure development achieves quality living conditions for its occupiers and that developments create a high standard of amenity for existing and future users.

Other Matters

17. The Thanet Coast and Sandwich Bay SPA provides wetland and important habitat that is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. These areas are easily disturbed by recreational activity from people and their pets and there is a reasonable likelihood that the SPA would be accessed for recreational purposes by future occupiers of the development.
18. Given the information and representations before me, it appears that the impact on the SPA could be monitored and managed to a satisfactory level through the provision of contributions, secured via a legal agreement. The Council has raised some concerns regarding the provision of an up to date title but accepts that the content of the unilateral undertaking submitted as part of the appeal would address its concerns in relation to the SPA. It is a matter I return to later in my decision.
19. There is nothing before me to indicate that No.47 Herschell Square once formed part of the curtilage of No. 46. As such, it is not a matter that has any bearing on my decision.

Planning Balance and Conclusion

20. At my request the Council has provided more up-to-date information on the housing land supply situation. The evidence presented indicates that the Council has met the most recent housing delivery test and can demonstrate the required supply of deliverable housing land.
21. The appellant was given an opportunity to comment upon this additional information. In response, the appellant challenges the Council's figures and suggests that there is a significant shortfall in housing supply. Furthermore, the appellant indicates that the Draft Local Plan process is to be reset to the Regulation 18 stage. No evidence is provided in respect of these points.
22. However, even if I were to accept the appellant's propositions regarding an absence of an adequate supply of deliverable housing land and that the Draft Local Plan should not be given weight, this does not automatically mean that the appeal should be allowed. The scheme would clearly accord with the Government's objective outlined within the Framework to boost the supply of homes from a variety of sites. Furthermore, increased densities are specifically supported by the recent written ministerial statement entitled "Building the homes we need". Whilst the provision of a new dwelling therefore attracts positive weight, the extent of the benefit would be modest given the scale of the development.
23. I acknowledge that the dwelling would be in a location with reasonable access to facilities. There would also be direct and indirect social and economic

benefits of the development, both short-term during construction and longer-term upon occupation. These all weigh in favour of the scheme although the extent of these benefits would similarly be modest given the scale of the development.

24. Conversely additional dwellings should not be at the expense of the character of an area or the living conditions of either future residents of the property or existing neighbouring occupiers. In respect of this appeal, the harms arising would be significant and long lasting. As such, they are worthy of substantial weight.
25. Therefore, were I to assess the proposal against the policies in the Framework taken as a whole, the adverse impacts of the new dwelling would significantly and demonstrably outweigh the benefits. On this basis, the proposal would not be sustainable development. The material considerations in this case would not indicate that the proposals should be determined other than in accordance with the development plan.
26. Had I been minded to grant planning permission, it would have been necessary for me to undertake an Appropriate Assessment. This would have been essential in order for me to be able to conclude that the integrity of the SPA was protected from adverse effects. However, as I am dismissing the appeal for other reasons there is no need for me to consider this matter further.
27. Whilst there would be some beneficial aspects arising from the scheme, the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine this appeal other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR