



Appeal Decision

Site visit made on 22 October 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/Z2260/W/23/3332717

91 High Street, Broadstairs, Kent CT10 1NQ

- 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 Sam White (Malcolms) against the decision of Thanet District Council.
 - The application Ref is F/TH/23/0808.
 - The development proposed is the demolition of existing single storey commercial unit, erection of three storey building comprising of commercial unit at ground floor and a one bedroom residential unit at first and second floors.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring dwelling, No.93 High Street, with regard to outlook and light; and
 - whether the proposed development would provide an adequate standard of accommodation for its future occupiers.

Reasons

Living Conditions

3. The appeal site is currently occupied by a single storey building in use as a barber shop. The surrounding area is both commercial and residential in nature with many buildings having commercial units on the ground floor and residential properties above. The proposed development would replace the existing single storey building with a three storey property with a commercial use on the ground floor and a one bedroom residential unit on the first and second floors.
4. The neighbouring property at No.93 High Street, a two-storey detached dwelling, has an unusual position being located behind the main row of buildings on High Street which is accessed via the side of the appeal site. Its front elevation faces the appeal site and would therefore face the rear elevation of the proposed development. The front elevation of No.93 has one ground floor window and two first floor windows. The relationship between the ground floor window and the proposed development would be similar to the

existing development and therefore the proposal would have little impact on the outlook from this window.

5. However, the proposed development would result in a significant level of additional built form, above the single storey of the current building, between No.93 and the High Street. Whilst this does not extend as close to No.93 as the ground floor section, the first and second floors of the proposed building would still be relatively close to the first floor windows of the neighbouring building, of which one serves a bedroom. As such, the proposed development would severely restrict the outlook from this first floor bedroom window at No.93 and would result in a sense of enclosure for its occupants.
6. The appellant contends that this first floor window serving a bedroom looks onto the 6 metre wide shared access to the side of the appeal building, and therefore would not be significantly impacted by the proposal. However, although not directly in front of it, the proposed development would still be in close proximity to this window and therefore the sense of enclosure would still be considerable.
7. Whilst the proposal would harm the outlook of the occupiers of No.93, as this property is north facing and the proposed first and second floors have been set back from this neighbouring building, it would not have a significant impact on the daylight received to the ground and first floor windows on the front elevation of No.93 and would not result in a harmful loss of light to the occupiers.
8. Nevertheless, for the reasons above, the proposed development would result in significant harm to the living conditions of the occupiers of the neighbouring dwelling, No.93 High Street, with regard to outlook, and would conflict with policy QD03 of the Thanet Local Plan (the LP) 2020. This policy seeks to ensure that all new development is compatible with neighbouring buildings and does not lead to unacceptable living conditions through overshadowing or sense of enclosure. The proposal would also be contrary to Paragraph 135 of the National Planning Policy Framework which states that planning decisions should ensure that development creates places with a high standard of amenity for existing users.

Standard of Accommodation

9. Policy QD04 of the LP states that all new development will be expected to meet the internal space standards as set out in table 13. This indicates that a one bedroom dwelling over two storeys should have an internal floor area of 58m². The appellant states that the one bedroom residential unit on the first and second floors of the proposed building would have a floor area of 55.9m², which would be below this requirement.
10. However, the appellant suggests that the dwelling could be used by 1 person only, where, over two storeys, there is no minimum floor area set out in table 13 of Policy QD04. However, the proposed floor plan submitted clearly show a double bedroom on the second floor and therefore it would be reasonable to assume that the proposed dwelling would be occupied by two people. It would also not be possible to control the number of people living in the dwelling and therefore it must be assumed that it would be occupied at full capacity.

11. As such, although only marginally below the stipulated floor area, the proposed development would not provide an adequate standard of accommodation for its future occupiers and would conflict with Policies QD03 and QD04 of the LP. These policies collectively seek to ensure that new development is of an appropriate size and layout with sufficient useable space to facilitate comfortable living conditions and meet the nationally described space standards. The proposal would also be contrary to Paragraph 135 of the National Planning Policy Framework which states that planning decisions should ensure that development creates places with a high standard of amenity for future users.

Other Matters

12. The Council's reasons for refusal include the effect of the proposed development on the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI). Given that the proposal is for additional housing, there is a reasonable likelihood that these European Sites would be accessed for recreational purposes by future occupants of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. As such, the Council indicate that a proportionate financial contribution, in accordance with The Strategic Access Management and Monitoring Plan (SAMM), should be secured.
13. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

14. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR