



Appeal Decision

Site visit made on 4 February 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Appeal Ref: APP/Z2260/W/24/3346240

Land in the curtilage of 16 Rydal Avenue, Ramsgate, Kent CT11 0PQ

- 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 Lashmar against the decision of Thanet District Council.
 - The application Ref is F/TH/23/1346.
 - The development proposed is a two bedroom bungalow style property with private gardens and off street parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether the proposed development provides adequate living conditions for future occupiers in relation to private amenity space.

Reasons

Character and Appearance

4. The appeal site is part of the rear garden space at 16 Rydal Avenue, largely covered with hardstanding and located adjacent to Langdale Avenue. The surrounding area is residential in nature, with properties on Rydal Avenue being mostly 2 storeys in height and properties on Langdale Avenue being single storey in height, some with additional rooms in the roofspace. Properties in the area are also set back from the roadside with relatively large gardens to the rear. The proposed development includes the construction of a new separate dwelling on the appeal site with access from Langdale Avenue.

5. The appellant indicates that the width of the proposed dwelling would be larger than the minimum width of typical dwellings in the area. However, the width of the plot would be smaller than typical properties in the area. For this reason, the proposed dwelling would occupy nearly the full width of the plot, appearing cramped in its surrounds and when compared to neighbouring dwellings in the area. The limited depth of the rear garden space would also be contrary to the prevailing pattern of development in the area, which although would not be visible from the streetscene, would be visible from neighbouring properties.
6. It is noted that the proposed fence on the front boundary is required for privacy, as the front garden is to be used as private amenity space to complement the area to the rear. However, it would appear at odds with neighbouring properties where tall fences are not generally seen along the front boundary, contrary to the character of the area. Whilst there is an existing tall fence in this location, it is not to the front of a dwelling and therefore is not comparable to the proposed development.
7. The appellant contends that the proposed dwelling would be no more harmful than an outbuilding in the rear garden of 16 Rydal Avenue, such as a shed or a summerhouse. However, an outbuilding is rarely as large as the dwelling proposed and, with a separate access and other separate domestic features, would not appear as an ancillary outbuilding to the host dwelling.
8. Therefore, for the reasons above, the proposed development would result in harm to the character and appearance of the surrounding area and would conflict with Policy QD02 of the Thanet District Council Local Plan (the LP) 2020. This policy seeks to ensure that development relates to the surrounding development, form and layout whilst respecting and enhancing the character of the area with external spaces and boundary treatments coordinated with adjacent sites.

Living Conditions

9. Section 3 of Policy QD03 of the LP requires all residential development to include the provision of private or shared external amenity space/play space, where possible. The proposed development provides a narrow garden space to the rear of the dwelling and another enclosed garden space to the front of the dwelling. The policy does not include a minimum space requirement in relation to this and therefore the proposal would meet this section of Policy QD03. Section 4 of this policy also requires that development provides for clothes drying facilities and waste disposal or bin storage, which could be accommodated to the front of the dwelling.
10. However, section 2 of Policy QD03 seeks to ensure that all new development has sufficient useable space to facilitate comfortable living conditions. Whilst the two proposed garden spaces may provide a private external amenity space, due to the constraints of the site, the proposed garden to the rear has an extremely limited depth and the proposed garden to the front is very enclosed, to provide the required privacy. These factors would make both garden areas unattractive to future occupiers and would limit the usability of these spaces. Therefore, for these reasons, the proposed garden space could not be considered a sufficient usable space in accordance with section 2 of the policy.
11. Consequently, the proposed development would not provide adequate living conditions for the future occupiers and would be contrary to Policy QD03 (2) of the LP as outlined above.

Planning Balance

12. Whilst not raised by the appellant, the Council indicate that as the relevant development plan policies are out of date, paragraph 11(d)(ii) of the Framework must be applied. No further information has been provided on this matter.
13. In the context of the development, I have found that the proposal would be contrary to policies QD02 and QD03 of the LP, resulting in harm to the character and appearance of the surrounding area and would not provide satisfactory living conditions for the future occupiers. The Framework supports the creation of high quality and sustainable buildings and places which are sympathetic to local character, including the surrounding built environment. It also supports a high standard of amenity for future users. Therefore, as these policies are generally consistent with the relevant aims of the Framework, I attach significant weight to the conflict with them.
14. The development would add to the overall housing land supply and make a small contribution to the Government's objectives of significantly boosting the supply of homes, with the addition of one dwelling in a sustainable location. However, given the scale of the scheme, any such benefits would be relatively small. The appellant contends that the appeal site falls under previously developed land (brownfield land), however the definition in the Framework clarifies that this excludes land in built up areas such as residential gardens.
15. Therefore, even if I were to conclude that the policies which are most important for determining the application are out of date, given the harm that I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of a single dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

Other Matters

16. The appeal site lies within the Zone of Influence of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar site. Given that the proposal is for additional housing, there is a reasonable likelihood that this European Site would be accessed for recreational purposes by future occupiers of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. Accordingly, a financial contribution is required for all housing development to contribute to a district wide mitigation strategy. However, a planning obligation to secure such a contribution has not been provided as part of the application or the appeal.
17. 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, 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

18. 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