



Appeal Decision

Site visit made on 19 March 2025

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 MARCH 2025

Appeal Ref: APP/E2205/W/24/3351128

64 Sussex Avenue, Ashford, TN24 8NB

- 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 Andrew Spicer against the decision of Ashford Borough Council.
 - The application Ref is PA/2024/0025.
 - The development proposed is demolition of existing extensions to 64 Sussex Avenue, new extension, and conversion of 64 Sussex Avenue into two two-bedroom flats. Erection of a new two-storey detached building comprising two two-bedroom flats, with access from Sussex Avenue and fronting Blue Line Lane, including bin store, cycle storage, and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Queens Road Conservation Area;
 - The effect of the proposed development on the living conditions of the occupiers of 21 Sturges Road with particular regard to outlook and privacy;
 - Whether living conditions for future occupiers would be satisfactory in respect of outdoor amenity space;
 - Whether the absence of off-street parking would harm highway and pedestrian safety; and
 - The effect of the proposed development on the integrity of the Stodmarsh Special Protection Area and Special Area of Conservation.

Reasons

Queens Road Conservation Area

3. The appeal site sits on the outside of a bend between Sussex Avenue and Sturges Road. The existing semi-detached property is slightly recessed behind the main line of houses. There is a garage at the rear and the land falls from front to back. As part of the scheme, a side extension would be added to the house and an irregular-shaped building would be constructed in the garden. In total four new flats would be provided.

4. This part of the conservation area along Sussex Avenue has a distinct character made up of closely spaced, two-storey terraced and semi-detached dwellings. This pleasant and coherent street scene of traditional buildings continues into Sturges Road. However, the area to the rear along Blue Line Lane and Park Road North is much more mixed with modern insertions including Pear Tree House, the buildings to the rear of Sturges Road and lock-up garages along Blue Line Lane.
5. From Sussex Avenue the proposed new build flats would be set well back and so would not be prominent from this direction. Rather than appearing cramped in the glimpses that would be possible between the appeal site and 21 Sturges Road, the building would be consistent with the tightly packed pattern of development in the vicinity. From the rear and from the public footpath that runs alongside the site, the new building would be more visible. However, it would not look out of place within the more fragmented arrangement of buildings in Blue Line Lane and Park Road North. There is criticism that the design is contrived but it has simply responded to the constraints of the site in order to make an effective use of land. Although adopting some contemporary elements, the general scale, form and materials of the building would be reflective of the locality.
6. There is no objection to the side extension to No 64 and the removal of the flat-roofed conservatory would be beneficial although only to a modest degree. The area to the rear of the site is not especially secluded as there are already upper floor windows that look over it. Therefore, any increased surveillance arising from the new units would not be of great value in promoting safe communities. It is also difficult to see how the proposal would increase the legibility of the rather indeterminate pocket of streetscape along Blue Line Lane.
7. Therefore, whilst the proposal would not enhance, it would preserve the character and appearance of the conservation area. It would accord with Policies SP1, SP6 and HOU3a of the Ashford Local Plan 2030 which collectively promote high quality design and Policy ENV14 which reflects the statutory duty in conservation areas.

Living conditions at 21 Sturges Road

8. According to the Council, the new two-storey building would be about 4.5m to the north of the neighbouring property at No 21. Its occupier refers to kitchen windows in the side elevation that face towards the appeal site. Although no information is available about the internal layout, on this basis and from what I observed, the proposal would create an overbearing sense of enclosure in close proximity to this flank fenestration. As a result, the outlook from the rear ground floor area of No 21 would be severely impeded.
9. The proposed first floor windows adjacent to the courtyard garden of No 21 have been angled away from this area so as to avoid overlooking. Views towards the side elevation and windows of the adjoining house would be possible from the covered balconies. However, the existing side bay at No 64 already allows this and there is no evidence that internal privacy would be compromised within the rooms potentially affected. There is nothing to indicate that internal light levels would be significantly curtailed.
10. Nevertheless, the proposed development would harm the living conditions of the occupiers of 21 Sturges Road. As such, there would be conflict with Local Plan Policy HOU3a which seeks to prevent a significant adverse impact on the amenity of existing residents.

Living conditions for future occupiers

11. Local Plan Policy HOU15 expects that the minimum width and depth of balconies should be 1.5m to accommodate a small table and chairs. This requirement would not be met. However, the proposal includes a small, central area which is designated as a communal garden. Bearing in mind the availability of public open space within 800m, this arrangement would be adequate for future residents.
12. The new ground floor flat would have three high level windows. They would serve a combined kitchen, living and dining area which would also have openings of a more conventional depth. As such, a reasonable outlook from that internal area would be possible as expected by the Supplementary Planning Document on *Residential Space and Layout*. The marginal shortfall in the size of one of the bedrooms does not count against the proposal.
13. As such, living conditions for future occupiers would be satisfactory. Whilst there is a strict breach of Policy HOU15, other aspects of the scheme outweigh this conflict.

Parking

14. Having regard to Local Plan Policy TRA3(a), the Council expects that the development should provide 5 off-street parking spaces. At present parking is possible at the rear of the site. The policy nevertheless makes allowance for a departure from the standards in exceptional cases. The site is in a sustainable location in the urban area, and it is very close to the town centre. Furthermore, an insistence on this level of parking would effectively scupper any prospect of residential development at the site and the contribution this would make to the supply of housing.
15. The surrounding streets are the subject of restrictions with parking limited to permit holders or to short stays. At the time of my mid-morning visit there was an ample supply of spaces. This is just a 'snapshot' but there is no indication of kerbside parking pressure at other times. Given the location of the site it would be perfectly feasible for future residents to not own a car. Furthermore, there is no clear evidence that any additional on-street parking generated by the proposed development would lead to safety or other issues.
16. Therefore, the specific local circumstances justify a departure from the minimum standards expected by Policy TRA3(a). There would be no conflict with that policy. The absence of off-street parking would not have an unacceptable impact on highway and pedestrian safety.

Stodmarsh

17. Stodmarsh is a wetland of national and international importance. There are currently high levels of nitrogen and phosphorus input into the water environment which are impacting on protected habitats and species. Because it falls within the Stour catchment area and would increase wastewater discharge, the proposal would have a likely significant effect on the habitat's sites.
18. The appellant's nutrient assessment calculates that the two new build apartments would increase the loading of phosphorous by 0.11kg/TP/year and nitrogen by 6.82kg/TN/per year. It is not possible to mitigate this impact on-site and so it is

anticipated that the appellant would engage with the nutrient credit scheme once it becomes available and that this could be required by condition.

19. However, there is no information about any such scheme, including the location of any potential nutrient mitigation sites, the timescales and whether there would be scope to offset the effects of the proposed development. The wording of any condition could not therefore be precise as required by paragraph 57 of the National Planning Policy Framework. The Planning Practice Guidance on *Appropriate Assessment* also confirms that any mitigation measures should be sufficiently secured and likely to work in practice. In the circumstances, given the lack of detail about a credit scheme for Ashford Borough, there is not the high level of certainty required to rule out a negative impact on Stodmarsh.
20. Therefore, following an appropriate assessment, the integrity of the habitat's sites would be adversely affected. In these circumstances, the Conservation of Habitats and Species Regulations preclude the proposal from proceeding and it would also be contrary to Local Plan Policy ENV1 on biodiversity.

Other Considerations

21. The appellant's case is that the Council is not able to demonstrate a five-year housing land supply. However, according to paragraph 195 of the Framework, the presumption in favour of sustainable development does not apply in this scenario as the proposal would adversely affect the integrity of a habitats site.
22. The Framework indicates that small sites can make an important contribution to meeting the housing requirement of an area. Furthermore, that the development of windfall sites should be supported with great weight given to the benefits of using suitable sites within existing settlements for homes. These considerations support the proposal. However, they do not override the harm that would occur.

Conclusion

23. The proposed development would preserve the character and appearance of the conservation area, would provide satisfactory living conditions for future occupiers and would not lead to unacceptable parking conditions. However, it would harm the living environment at 21 Sturges Road and the integrity of the habitats site at Stodmarsh would be adversely affected. Given the provisions of the relevant legislation this latter finding is decisive.
24. Although the proposal accords with some Local Plan policies, the strength of the objections identified means that it would conflict with the development plan as a whole. There are no other considerations that outweigh this. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR