



Appeal Decision

Site visit made on 29 October 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2025

Appeal Ref: APP/J2210/W/25/3368927

Rear of 1 The Bungalow, Canterbury Road, Herne Common, KENT CT6 7JX

- 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 K Kemp against the decision of Canterbury City Council.
 - The application Ref is CA/24/01843.
 - The development proposed is a two-storey detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the site address and description of development in the Council's decision notice as these more accurately and succinctly identify the site and the development for which permission is sought.
3. The Council confirmed in its appeal statement that it was now content that the proposed dwelling would meet the necessary fire appliance distances. Accordingly, the third reason for refusal falls away and I make no further reference to it in my decision.

Main Issues

4. The main issues are therefore the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of residents of the host property; and c) the Thanet Coast and Sandwich Bay Special Protection Area.

Reasons

Character and Appearance

5. The appeal site forms one of a small ribbon of buildings on the south side of this part of Canterbury Road. There is variety in the size and appearance of the buildings. Although they do not display a strong, consistent building line, they are generally set back from the road and there is space between the different built forms, giving the area a pleasant and spacious character.
6. From Canterbury Road it is possible to glimpse buildings to the rear of the Curious Cat pub, which is a little to the north east of the appeal site. However, it is not possible to clearly discern whether they are separate from the pub. Other properties have outbuildings to the rear although they are less visible when viewed

from the public realm. None of this unduly diminishes the spacious character of the area.

7. The appeal site comprises a single storey dwelling which has been extended to the rear. There are a number of sizable outbuildings in the rear garden although these are not widely noticeable from outside of the site. The proposal would involve the removal of these existing outbuildings and the erection of a sizeable, two storey dwelling to the rear of the host bungalow.
8. Not only would the new dwelling be positioned close to the rear of the host dwelling but it would be noticeably taller than it. Unlike other backland buildings which exist in the area, the proposed dwelling would be readily visible from Canterbury Road. It would clearly be read as a separate dwelling rather than as an outbuilding, with the attendant comings and goings, paraphernalia etc.
9. Given the overall scale and height of the built form proposed and its position immediately to the rear of the bungalow, there would be a jarring visual relationship between the two houses. This relationship would be at odds with the wider pattern of development and as a whole would run counter to the established spacious street scene.
10. Consequently, I therefore find that the proposal would harm the character and appearance of the area and conflict with Policy DBE3 of the Canterbury District Local Plan 2017 (CDLP). This policy, amongst other things, seeks to ensure developments are of an appropriate form and have regard to the character and context of the site.
11. 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

12. In addition to being sited close to the rear of the host property, the proposed dwelling would also be sited close to their new shared side boundary. Although I have not been provided with an internal layout of the existing bungalow or any sunlight/daylight report, given its orientation and various windows, I cannot be certain that the existing occupiers would notice any material loss of daylight or sunlight.
13. Nevertheless, even if natural light to the existing internal spaces were to be acceptable, the proposed two storey dwelling would loom up over the new side boundary. Although the roof pitch is said to be shallow, the building as a whole would appear as a dominant feature that would have an overbearing impact. It would be particularly impactful when experienced from the garden of No.1. It is also likely to cast a significant shadow across much of the rear garden to No.1 during the first part of the day. These effects would be harmful to the living conditions of the occupants of No.1.
14. I acknowledge that the appellant currently resides at No.1 and may be content with the resulting situation. However, planning permission runs with the land and I must have regard to the long-term situation and the effect of the proposal on the living conditions of all future residents.

15. I do not find the adverse effects of the proposal on the living conditions of the occupants of the host property to be acceptable and thus the proposal is contrary to Policy DBE3 of the CDLP. This policy, amongst other things, requires developments to consider the amenity of neighbouring buildings and future occupiers.
16. The Framework similarly requires development to create a high standard of amenity for existing and future users and to not undermine quality of life.
17. The Council's decision notice refers to Policy DBE6 of the CDLP but as this relates to alterations and extensions to buildings it is not directly relevant to the proposal.

Thanet Coast and Sandwich Bay Special Protection Area (SPA)

18. The Thanet Coast and Sandwich Bay SPA provides, amongst other things, wetland and important habitat which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). These areas are easily disturbed by recreational activity from people living within a 'zone of influence' of the protected areas. The appellant does not dispute that the appeal site lies within the zone of influence for this SPA.
19. However, the appellant asserts that any disturbance from future occupiers would be inconsequential. Whilst the effects of the development alone might be limited, the Habitats Regulations require me to consider them in combination with other plans or projects. As such, additional recreational visitors to the protected areas from new developments, including from the appeal site, would be likely to have significant effects.
20. Given that there would be likely significant effects, I am required to consider any avoidance or mitigation measures that would be capable of addressing the adverse effects and to be certain that they would be effective. The Council indicate there to be a tariff-based system in place which would provide the necessary mitigation. Any financial contributions would usually have to be secured through a legal agreement. No legal agreement has been submitted. Instead, the appellant suggests the use of a planning condition to secure the appropriate contribution towards mitigation prior to commencement of the development.
21. Whilst I do not doubt the appellants' intentions to adhere to any pre-commencement condition, such an approach would not secure the mitigation at the point of decision, which is what the Habitat Regulations require. Consequently, planning permission could only be granted in this case if there are reasons of overriding public interest and that suitable compensatory measures are secured. As this case does not reach that high bar, permission cannot be granted.
22. Accordingly, I find that the proposed development could result in harm to the integrity of the SPA and would conflict with both the Habitats Regulations, and Policies SP1, SP6 and LB5 of the CDLP. These policies, amongst other things, require development to avoid significant harm to, and adequately mitigate the effects of a development, on important internationally protected sites, and that any adverse effect is only permitted in exceptional circumstances where there are overriding reasons of public interest.
23. The development would also conflict with the Framework which requires development to protect and enhance the natural environment and sites of

biodiversity value, improve biodiversity, and that where significant harm to biodiversity cannot be adequately mitigated, permission should be refused.

Other Matters

24. The planning application forms indicate the development is to be for self-build housing although there is no further elaboration on this issue in the appeal statement. More pertinently, there is no completed planning agreement to legally secure the new dwelling as a self-build project. A condition to secure the dwelling as self-build or require the completion of a legal agreement, is unlikely to pass the test of enforceability. I am therefore not convinced that a condition could be used to secure the dwelling as a self-build property. Consequently, there would be no mechanism in place to ensure the self-build nature of the development. I therefore attach limited weight to any self-build benefits.
25. As a consequence of this, the development would not qualify for the biodiversity net gain self-build exemption. As it has not been demonstrated biodiversity net gains are not applicable to the development or that if they are applicable that they could be achieved, this weighs against the proposal.

Conclusion

26. There would be some benefits of the proposal. In particular the appellant refers to the provision of an additional dwelling in this location and alludes to the Council not meeting its housing supply or delivery targets. However, even if that is the case and Paragraph 11 of the Framework is engaged, the harms I have identified are consistent with the Framework's policies and so carry weight. More significantly in this case, Footnote 7 to Paragraph 11 indicates that the application of policies in the Framework that protect an area of particular importance (in this case the SPA) provide a strong reason for refusing the proposal.
27. Accordingly, under Paragraph 11(d)(i) of the Framework, planning permission should be refused and, therefore, it is not necessary for me to consider or weigh the identified harms, including those conflicts with the development plan, against any of the other identified issues or proclaimed benefits of the proposal.
28. The proposal conflicts with relevant policies of the development plan. There are no other material considerations, including the Framework, to indicate that the decision should be made other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above, the proposal is unacceptable and so the appeal should be dismissed.

Stewart Glassar

INSPECTOR