

Planning Application FH/TH/23/0138 – 54 Stone Road Broadstairs Kent

Meeting	Planning Committee – 20th September 2023
Report Author:	Iain Livingstone, Planning Applications Manager
Planning Reference:	FH/TH/23/0138
Site Address:	54 Stone Road Broadstairs Kent
Applicant:	Mr Dan Clewley
Status:	For Decision
Classification:	Unrestricted
Previously Considered by:	Planning Committee 19 April 2023
Ward:	Bradstowe

Executive Summary:

This report concerns an householder planning application for the erection of two storey front and rear extensions together with 4 roof lights, front flat roof porch and first floor rear balcony and alterations to fenestration and materials at 54 Stone Road, Broadstairs.

The application was reported to the Planning Committee on the 19th April 2023. At this meeting, a motion to approve the application subject to safeguarding conditions was voted down and a motion was passed for members to visit the site.

Prior to the site visit, the applicant appealed against the non-determination of the application, meaning that the determination of the application now rests with the Planning Inspectorate.

The Council has been notified of the start of the appeal on the 4th September and must provide a statement of case/position by 9th October 2023.

The application is reported back to the Planning Committee to agree the position of the Council in regard to the appeal.

Recommendation:

Members confirm that they would have granted planning permission for the application under reference FH/TH/23/0138 subject to safeguarding conditions at Annex 1, thereby raising no objection to the non-determination appeal APP/Z2260/W/23/3322220.

Corporate Implications

Financial and Value for Money

The Planning Committee is not bound to follow the advice of Officers. However, should Members decide not to accept the advice of Officers it should be mindful of the potential cost implications in doing so.

The advice from Central Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

The advice outlined is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.

Legal

However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision.

The reasons for any decision must be formally recorded in the minutes and a copy placed on file.

If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.

Corporate

No corporate implications on the Council's priorities.

Equalities Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy and maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.

1.0 Background

- 1.1 The planning application for the erection of two storey front and rear extensions together with 4 roof lights, front flat roof porch and first floor rear balcony and alterations to fenestration and materials at 54 Stone Road, Broadstairs (FH/TH/23/0138) was reported to the Planning Committee on the 19th April 2023.
- 1.2 At this meeting, public speaking on the application occurred prior to the debate of the application by the planning committee. Both public speaking and the debate can be viewed on the Council's youtube channel here: https://youtu.be/ryy0f-_FEi0?t=6210. A motion to approve the application subject to safeguarding conditions was voted down and a motion was passed for members to visit the site. Due to the timing of the local elections, with no planning committee meeting scheduled in May, the site visit was set to occur on 7th July 2023 after the training of new members and the first meeting for the planning committee.
- 1.3 The Council was notified on 16th May 2023 that a planning appeal was received by the Planning Inspectorate against the non-determination of the application (reference Members confirm that they would have granted planning permission for the application under reference FH/TH/23/0138 subject to safeguarding conditions at Annex 1, thereby raising no objection to the non-determination appeal APP/Z2260/W/23/3322220). The deadline for determining the planning application (8 weeks from the date a householder application is made valid) had passed and the applicant had not agreed to extend the time period for determination by the Council. Therefore the application will now be decided by the Planning Inspectorate by way of the appeal.
- 1.4 The appeal will be determined by the Planning Inspectorate's written representations procedure, where an appointed Inspector will decide the appeal based on written material provided by all parties. The Inspector would normally visit the appeal site. Initially the Council provides a questionnaire about the application to the Planning Inspectorate within a week of the start date (4th September), with the statement of case required to be provided within 5 weeks of the start date (9th October 2023). The questionnaire requires the Council to provide information of the relevant local plan policies, as well as sending all objections received during the consultation period of application to the Inspectorate. It is important to emphasise that objectors are still allowed time to respond formally to the appeal by the Inspectorate by 9th October 2023, with notification letters sent by the Council to any person who was notified or consulted about the application and any other interested persons who made

representations. Any comments received by the relevant date by the Inspector will form part of their deliberations.

2.0 Consideration of the appeal

- 2.1 As the application was not determined by the Council, it falls to determine the position of the Council in regard to the appeal. As the application was “called in” to Planning Committee, the Committee must determine how they would have decided the application if it was decided without the benefit of a site visit.
- 2.2 The previous committee report produced by officers, recommending approval of the application subject to safeguarding conditions, is appended at Annex 1. The report outlines all relevant material planning considerations, including the impact of the proposed development on the character and appearance of the area and the impact on the living conditions of neighbouring properties, considered against the Thanet Local Plan and Broadstairs and St Peters Neighbourhood Plan. It is not considered that any changes have occurred, including the revised Broadstairs and St Peters Neighbourhood plan accruing significant weight (following the publishing by the Council of the decision statement moving the plan to referendum), which alter the position of officers that the proposal is in accordance with all relevant development plan policies and national guidance.
- 2.3 Whilst public consultation on the application has closed, further photographs and information have been submitted by the neighbour to the site. These are provided in the Committee member’s room for viewing. No further public speaking will occur on the application as this has already occurred at the April Planning Committee meeting.
- 2.4 If the Planning Committee are minded to determine that they would have refused planning permission, against officer advice, the Planning Committee is required to give adequate and intelligible reasons on good planning grounds opposing the appeal, and these ground(s) of refusal must be in the minds of members of the Planning Committee at the point of refusal. In addition, the Council is at risk of having costs awarded against it, if on appeal it is unable to justify each ground of refusal. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector.

3.0 Options

- 3.1 Members confirm that they would have granted planning permission for the application under reference FH/TH/23/0138 subject to safeguarding conditions at Annex 1, thereby raising no objection to the non-determination appeal APP/Z2260/W/23/3322220.
- 3.2 Members propose an alternative motion.

4.0 Recommendations

4.1 Officers recommend Members of the Planning Committee agree option 3.1.

Contact Officer: *Iain Livingstone, Planning Applications Manager*

Reporting to: *Ashley Jackson, Head of Housing and Planning*

Annex List

Annex 1: Committee Report FH/TH/23/0138