

Appeal Decision

Site visit made on 25 August 2016

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2016

Appeal Ref: APP/X2220/W/16/3149704

The Outrigger, Chapel Lane, Ashley, Dover, Kent, CT15 5HZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Costello against the decision of Dover District Council.
 - The application ref: DOV/15/00936, dated 17 September 2015, was refused by notice dated 6 November 2015.
 - The development proposed is new detached 4 bedroom dwelling in the grounds of The Outrigger, Chapel Lane, Ashley.
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Decision

1. The appeal is allowed and planning permission is granted for new detached 4 bedroom dwelling in the grounds of The Outrigger, Chapel Lane, Ashley, Dover, Kent, CT15 5HZ, in accordance with the terms of the application ref: DOV/15/00936, dated 17 September 2015, subject to the conditions set out in Annex A to this decision.

Main Issues

2. The main issues in this case are:
 - a) Whether the proposal represents sustainable development.
 - b) The effect of the proposed dwelling upon the character and appearance of the surrounding area, including its effect upon protected trees.

Reasons

- a) *Whether sustainable development.*
3. The subject property comprises a large, detached period house together with a modern detached double garage. It is within the small settlement of Ashley, which is made up of a wide selection of older houses and modern detached bungalows.
 4. There is no defined settlement boundary to Ashley. However, the appeal site is wholly surrounded by housing and forms part of the established curtilage of The Outrigger.
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5. I accept that there are no local services within Ashley itself. It is nevertheless adjacent to other small settlements and is within easy reach, albeit by private motor car, of the town of Whitfield, which has a wide cross-section of services.
6. National policy at paragraph 55 of the Framework¹ states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby."

7. Development of the site as proposed would not represent an isolated dwelling in the countryside given its physical characteristics and the existence of other nearby settlements such as Eythorne, Tilmanstone and East Studdal.
8. The appellant's application for pre-planning advice refers to the proximity of railway stations within some 3 miles and of the major 'bus routes to Dover, Canterbury and London located at Eythorne (0.9 miles distant). There are also schools within 3 miles that have regular 'bus pick-ups throughout the village and doctors' surgeries at Whitfield (2.6 miles) and Dover.
9. Given these factors and my observations on site, I am satisfied that development as proposed would make full and effective use of an existing residential curtilage and assist in the provision of a wide choice of housing, as advocated by Chapter 6 of the Framework.
10. I therefore find upon the first main issue that in the particular circumstances of this case development of the appeal site for a single, purpose-built house would represent a sustainable form of development by reference to national policy in the Framework as detailed above and Policy DM 15 iii. of the adopted Core Strategy².

b) Effect upon character and appearance.

11. The appeal site forms part of the curtilage of The Outrigger. It is surrounded on all four sides by residential development, including a wide cross-section of dwellings.
12. The site would be accessed by means of the existing driveway which serves The Outrigger. This would enable retention of the existing tree/hedge screen to the southwest and southeast frontages to Chapel Lane. Certain of the trees within this frontage planting are protected by a Tree Preservation Order dated 7 July 1977.
13. The design of the proposed dwelling would complement that of The Outrigger and the eclectic mix of older houses opposite, including The Thatched Cottage, while its siting and orientation would also accord with the varied pattern of its immediate surroundings.
14. For all of these reasons I have found upon the second main issue that subject to the imposition of conditions to safeguard the frontage planting, including the

¹ The National Planning Policy Framework.

² Dover District Local Development Framework: Core Strategy (adopted February 2010).

protected trees, development as proposed would not be harmful to the varied character and appearance of the surrounding area and would accord with national policy at paragraphs 50 and 55 of the Framework and Policy DM 15 of the Core Strategy.

Conditions

15. The Council has put forward a total of 15 conditions to be imposed should I be minded to allow this appeal. I have considered these against the tests of the Framework and advice provided by the Government's Planning Practice Guidance issued on 6 March 2014 and find all to be reasonable and necessary in the circumstances of this case.
16. I have amended the wording of certain of the conditions where required, or have combined/separated others, in the interests of clarity. In particular, given the presence of protected trees on the appeal site, I consider it necessary to require details of tree protection measures to be submitted to the Council for approval prior to the commencement of development.
17. My reasons for the conditions are:
18. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Conditions 2, 3 and 4 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area. Conditions 5, 6, 7 and 8 will afford protection to retained trees, hedges and hedgerows on the site, all of which make a positive contribution to the character and appearance of the area.
19. Condition 9 is designed to safeguard the privacy and amenities of adjoining residential occupiers, while Condition 10 is necessary in order to minimise the impact of the development upon the surrounding area during the construction phase. Condition 11 will secure the provision of adequate refuse storage facilities to serve the new dwelling in the interests of the amenities of the area and of bicycle storage facilities to enhance the sustainability credentials of the development.
20. Conditions 12, 13 and 14 are necessary in the interests of highway safety. Condition 15 requiring development to be carried out in accordance with the approved plans, provides certainty.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

R. J. Maile

INSPECTOR

Schedule of Conditions

Annex A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples.
- 3) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, boundary treatment, planting plans, written specifications, schedules of plants noting species, plant sizes and proposed numbers/densities, where appropriate, and an implementation programme.
- 4) All hard and soft landscape works shall be carried out in accordance with the approved details before any part of the development hereby permitted is first occupied or in accordance with the agreed implementation programme; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written approval to any variation.
- 5) No development shall take place until a plan has been submitted to and approved in writing by the Local Planning Authority indicating the positions of all trees, hedges and hedgerows on the site, together with details of those to be retained and the measures for their protection during construction works, such measures to accord with BS 5837:2012 ('Trees in relation to design, demolition and construction – Recommendations').
- 6) The erection of fencing for the protection of any retained trees, hedges and hedgerows shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
- 7) In this condition "retained tree, hedge or hedgerow" means an existing tree, hedge or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.
 - (i) No retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner (be it branches, stems or roots) other than in accordance with the approved plans and particulars without the prior written consent of the Local

Planning Authority. All tree work shall be carried out in accordance with BS 3998:2010 (Tree Work – Recommendations).

- (ii) If any retained tree, hedge or hedgerow dies, is cut down, uprooted or destroyed, another tree or hedging plants shall be planted in the same place and that tree or hedging plants shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
- 8) No fires shall be lit within 10 metres of any retained hedge or hedgerow or of the nearest point of the canopy of any retained tree.
 - 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no windows/dormer windows other than those expressly authorised by this permission shall be constructed at first floor level within the northwest and southeast flank elevations of the dwelling hereby permitted or within any of the roof slopes.
 - 10) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
 - (a) the on-site parking of vehicles for site operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) construction working hours;
 - (d) temporary access arrangements;
 - (e) measures to control the emission of dust and dirt during construction;
 - (f) measures to prevent dirt or other debris from being deposited upon the public highway.
 - 11) No development shall take place until full details of the provision of refuse and bicycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The refuse and bicycle storage facilities shall be provided in accordance with the approved details before the dwelling hereby permitted is first occupied and thereafter permanently retained for such purposes.
 - 12) The area shown on the approved drawings as vehicle parking/turning space shall be provided, surfaced and drained before the dwelling hereby permitted is first occupied; and the vehicle parking/turning space so provided shall thereafter be permanently retained for its designated use.
 - 13) No surface water shall be discharged from the site onto the highway at any time.
 - 14) The development hereby permitted shall not be occupied until the vehicular access to it has been provided in accordance with the approved plans. The first 6 metres of that vehicular access, as measured from the highway, shall be constructed of a bound material and maintained as such thereafter; and no gates shall be erected within 6 metres of the highway.

- 15) The development hereby permitted shall be carried out in accordance with the following approved plans:

FCS-2015-137-002: Proposed Site Plan – scale 1:1250; Proposed Floor Plans – scale 1:50; Proposed Elevations – scale 1:100.

FCS-2015-137-003: Proposed Block Plan – scale 1:200; Proposed Access to Site – scale 1:100.

FCS-2015-137-004: Proposed Floor Plans and Elevations of Garage – scale 1:50.