
Appeal Decision

Site visit made on 20 September 2016

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 3 October 2016

Appeal Ref: APP/E2205/W/16/3150613

237 Canterbury Road, Kennington, Kent TN24 9QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to outline grant planning permission.
 - The appeal is made by Mr Eric Tiv against the decision of Ashford Borough Council.
 - The application Ref 15/00826/AS, dated 16 June 2015, was refused by notice dated 19 November 2015.
 - The development proposed is erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The protected tree;
 - The living conditions of the future occupiers of the property; and
 - The local highway network.

Reasons

Character and appearance

3. The appeal site is a portion of the rear garden of No 237 Canterbury Road (No 237), which is a detached two-storey dwelling. Canterbury Road is defined by consistent pattern of both similarly positioned road fronting dwellings and generously sized long rear gardens. The regularity of the built form and garden sizes are a defining feature of the area which positively contributes to its character and appearance, and clearly distinguishes it from the more tightly knit residential development to the rear of the site.
4. Because No 237 is set further back into the site than its neighbours, both it and the proposed property, as indicated on the indicative layout, would be positioned rather close together with little garden space for each. The resultant effect would be cramped form of development which would be incongruous with the more spacious character of Canterbury Road which the appeal site clearly aligns with. I find the proposed development would substantially depart from and cause considerable harm to the character and appearance of the area.

5. In reaching my decision, I have had regard to the fact that layout is a reserved matter. However, no evidence is before me which demonstrates that the proposed dwelling could be practically positioned elsewhere on the plot to overcome the harm I have identified. I have also considered whether the access to serve the proposed dwelling would be taken from a cycleway as the Council suggests, thus amounting to a further departure from the area's character. However, even if I accepted the appellant's assertion that the proposed dwelling would front a road akin to other properties in the area, considerable harm would still occur on the matters I have already identified above.
6. The proposed development would therefore not accord with policies CS1 and CS9 of the Local Development Framework Core Strategy (Core Strategy). These state that development must be of high quality and respect the site context and character of the area. The Council has referenced policy U0 of the Urban Sites and Infrastructure Development Plan Document in its decision notice. The policy largely reflects the tests of paragraphs 49 and 14 of the National Planning Policy Framework. As no such issues are before me, I have not found the policy to be particularly relevant in this appeal.

Effect on protected tree

7. My attention has been drawn to the presence of a substantial tree located in the neighbouring garden at No 239 Canterbury Road, which the Council identifies as a Blue Atlantic Cedar, and which is protected by a Tree Preservation Order. This is not disputed by the appellant. While I noted that the tree was not particularly close to the indicative positioning of the proposed property, it was not sufficiently distant to conclude with any reasonable degree of confidence that the proposed dwelling would not encounter or subsequently damage its roots. The appellant has not provided any aboricultural evidence to indicate the likely root zone area of the tree, and subsequently whether the proposed dwelling could be accommodated on the site in this instance.
8. In the absence of evidence to the contrary, I am unable to conclude that the proposed development would not cause damage to the tree or that protection measures during construction would be adequate. I therefore find the proposed development would not accord with policy EN32 of the Ashford Borough Local Plan (Local Plan), which states that planning permission will not be granted for any development proposals which would damage or result in the loss of important trees.

Effect on living conditions

9. While the plot size for the proposed property would appear to be particularly large, I find little evidence before me which suggests that it would be insufficient for the needs of the future occupiers.
10. I observed at my site visit the while sizeable, the crown spread of the tree affected only the far corner of the current garden of No 237. The indicative drawings show that the proposed dwelling could be positioned away from the affected area of that part of garden. Having regard also to orientation of the plot and the daily path of the sun, I find that the crown spread would unlikely cause undue dominance or would excessively overshadow the garden, and as such would not be detrimental to the living conditions of the future occupiers of the property.

11. The Council has not identified, and it is not obvious in the evidence before me which of its Local Plan or Core Strategy policies the proposed development would be contrary to in this instance. I have therefore had regard to paragraph 17 of the National Planning Policy Framework which identifies core planning principles which should underpin decision making. This states that planning should secure a good standard of amenity for all existing and future occupiers of land and buildings. For the reasons given above, I find no conflict with the Framework in this regard.

Effect on the local highway network

12. The proposed dwelling would be served from an access way that also serves to provide vehicular access to the appeal property as well to the rear garden area of No 233 Canterbury Road. The Council has not substantiated its concerns regarding the standard or suitability of the access to accommodate the proposed development, or indeed the harm that would be caused to pedestrian or vehicle safety as a result. Having regard to the size of the plot and the subsequent dwelling that would likely be built, I find that the number of vehicles that would likely be associated with the proposed property and subsequent traffic movement would not amount to any significant level to cause harm to highway safety.
13. Again, the Council has not identified, and it is not obvious in the evidence before me which of its Local Plan or Core Strategy policies the proposed development would be contrary to in this instance. I have therefore had regard to paragraph 32 of the Framework, which states that planning decisions should take account of safe and suitable access to the site, and that development should only be refused on transport grounds where the residual cumulative impacts are severe.

Conclusion

14. The living conditions of the future occupiers of the proposed property would not be unduly harmed by the plot size and the presence of the protected tree, and I do not find the proposed development would generate traffic levels that would undermine highway safety. However, I find significant harm would be caused to the character and appearance of the area, and insufficient evidence exists to demonstrate the construction of the dwelling could be achieved without damaging the health of the protected tree.
15. For the reasons given above I conclude that the appeal should be dismissed.

R Allen

INSPECTOR