

Appeal Decisions

Site visit made on 7 September 2016

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 5 October 2016

Appeal Ref: APP/J2210/W/15/3139522
22B The Grove, Barham, Canterbury CT4 6PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mrs Karen Stone against the decision of Canterbury City Council.
 - The application Ref CA/15/01745/FUL, dated 7 August 2015, was refused by notice dated 5 October 2015.
 - The development proposed is change of use of land adjacent to existing property from agricultural (field) to residential (C3) in order to develop garden.
-

Appeal Ref: APP/J2210/C/15/3144018
Land adjoining 22B The Grove, Barham, Canterbury CT4 6PP

- The appeal is made under section 174 of the Act as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Karen Stone against an enforcement notice issued by Canterbury City Council.
 - The notice was issued on 22 January 2016.
 - The breach of planning control as alleged in the notice is development consisting of:
 - 1) the material change of use of Land to domestic garden and domestic curtilage and
 - 2) operational development comprising the erection of a domestic 'summerhouse' building; and
 - 3) the erection of a 2m high boundary fence on the north, west and east boundaries of the Land.
 - The requirements of the notice are
 - i) Remove the close boarded fence on the east, north and west boundary of the Land;
 - ii) Dismantle and remove the 'summerhouse' building from the Land;
 - iii) Remove all other domestic materials, equipment, hard surfaces, foundations and paraphernalia from the Land;
 - iv) Remove all items of rubbish and rubble arising from steps i to iii above;
 - v) Cease the use of the land as garden or otherwise as a domestic curtilage and
 - vi) Allow the Land to revert to an agriculture or natural state.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
-

Decisions

Appeal APP/J2210/W/15/3139522

1. The appeal is allowed and planning permission is granted for change of use of land adjacent to existing property from agricultural (field) to residential (C3) in order to develop garden at 22B The Grove, Barham, Canterbury CT4 6PP in
-

accordance with the terms of the application, Ref CA/15/01745/FUL, dated 7 August 2015.

Appeal APP/J2210/C/15/3144018

2. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely
 - 1) the material change of use of Land to domestic garden and domestic curtilage; and
 - 2) operational development comprising the erection of a domestic 'summerhouse' building; and
 - 3) the erection of a 2m high boundary fence on the north, west and east boundaries of the Land

at land adjoining 22B The Grove, Barham, Canterbury CT4 6PP, as shown on the plan attached to the notice.

Main Issue

3. The main issues in this case are
 - a) whether the development fails to preserve the character or appearance of the Barham Conservation Area, and
 - b) its effect on the surrounding countryside and, in particular, whether it conserves the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (the AONB).

Policy

4. The Council made reference to the emerging *Canterbury District Local Plan*. However, as I understand that is still being examined, I cannot afford significant weight to its policies as they could well change prior to adoption.

Reasons

The effect on the conservation area

5. In the village of Barham lies a large field (the field). Valley Road runs down the western side while the older part of the settlement is to the north along The Street. On the east are a selection of large buildings of an agricultural character while to the south are the houses at the head of The Grove, a cul-de-sac that was substantially built in the mid 20th Century. An arm of the field then runs southwards between the main road and the rear gardens of the properties on the west side of The Grove. The field appeared to be unused when I visited, but it had recently been cut. It was crossed by a path from The Street to The Grove, along which I understand it is accepted the public can pass.
6. The field and its surroundings (including The Grove) lie in the Barham Conservation Area. Although this contains much recent infill housing development, its significance lies in the way it reflects the character and appearance of a historic rural settlement that has grown up and developed over

the years, with its mix of buildings of various ages and styles and the presence throughout of open spaces and mature landscaping. To my mind the open nature of the field contributes positively to this significance.

7. No 22B is one of the 2 dwellings at the end of The Grove, and the owners have acquired an 8 - 10m wide strip of the field immediately adjacent to their long side boundary, and incorporated it into their garden. As part of these works the land has been enclosed on 3 sides with a solid wooden fence and a summerhouse has been erected in one corner.
8. The Council accepted that there was no reason under the policy regime why this development should be resisted in principle in this location, and that is a view I share.
9. In my opinion whether seen from the surrounding roads or from the footpath, the portion of the field incorporated into the garden of No 22B is not sufficiently large to compromise the field as an open space within the conservation area and the village. While the perimeter fencing is noticeable, the field was already bounded by fencing in places and I also understand that a similar fence ran along the Appellant's northern boundary beforehand. Given this to my mind repositioning the fence further northwards to include this strip does not have a material effect on the character or appearance of the field or the role it plays in the conservation area.
10. Furthermore, the development is some distance from the older part of the village that is along The Street and around the playing field at the junction with Valley Road. Few views of it are possible from that road or those properties. However, from where it can be seen the separation involved, the limited nature of the works and the fact that the fencing is set against relatively modern housing mean the works do not detract from that part of the conservation area, and do not diminish the setting of the buildings on The Street or the distinction between them and the more recent development on The Grove.
11. In assessing this matter it is appreciated that the topmost part of the summerhouse can be seen above the fencing, but that appears as an outbuilding typically found in a domestic garden. Therefore it does not detract from the conservation area.
12. Accordingly, I find that the development does not fail to preserve the character or appearance of the Barham Conservation Area, and so does not diminish its significance or conflict with Policies BE1 or BE7 in the *Canterbury District Local Plan* (2006).

The effect on the countryside and the AONB

13. The entire settlement of Barham lies within the AONB, though the Council accepted the appeal site was not strictly seen as open countryside but rather was semi-rural. I consider that the enclosed nature of the field, bounded as it is by buildings, and the relatively small size of the garden extension mean this development does not fail to conserve the landscape and scenic beauty of the AONB, or cause harm to the character and appearance of the field or the countryside around the village.
14. I was also told the site fell within an Area of High Landscape Value (AHLV) and within a Special Landscape Area (SLA). However, no substantive information was offered relating to those 2 designations, and no reasons were presented to

show how any harm to them would go beyond the matters discussed above. Therefore on the evidence before me I have no grounds to resist the proposal because of any adverse effect on the AHLV or SLA.

15. Accordingly I conclude that the development does not conflict with Policies R6 or BE1 in the Local Plan.

Other matters

16. There has been a concern about the precedent this development would set. Each application though is assessed on its own merits, and if any further submissions for comparable development are forthcoming they will no doubt be judged in the light of the policy background and other material considerations then in place.
17. The Appellant said the enlarged garden was required for her husband's medical conditions. Whilst I have noted the evidence submitted in connection with this point it has not proved decisive in my reasoning.

Conditions

18. The Council suggested 2 conditions be imposed if I am minded to allow the appeals. The first restricts the development only to the area shown on the approved plans, but planning permission would not be granted to cover a larger area and so such a condition is unnecessary. The second condition requires details of the boundary treatment to be approved but as I have raised no objections against what is there now I consider that condition need not be imposed either.
19. The Appellant suggested 3 conditions. One was to allow the summerhouse to remain only while her husband lived here, but as personal circumstances have not been decisive such a control is not required. The other 2 conditions concerned screen planting. This again has not been necessary for me to consider the development does not cause harm.
20. In the light of the above, I therefore find that no conditions need be imposed.

Conclusions

21. For the reasons given planning permission should be granted, the enforcement notice should be quashed and the appeal under ground (a) allowed.

J P Sargent

INSPECTOR