
Appeal Decision

Site visit made on 8 November 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 22 November 2016

Appeal Ref: APP/U2235/W/16/3153242

Yonder Cottage, St. Faiths Lane, Bearsted, Maidstone, Kent ME14 4JN

- 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 & Mrs Matthew & Lucy Palmer against the decision of Maidstone Borough Council.
 - The application Ref 15/509684/FULL, dated 16 November 2015, was refused by notice dated 14 April 2016.
 - The development proposed is a replacement dwelling and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling and detached garage at Yonder Cottage, St. Faiths Lane, Bearsted, Maidstone, Kent ME14 4JN in accordance with the terms of the application, Ref 15/509684/FULL, dated 16 November 2015, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. I have taken the appellants' names from the appeal form, although I note one of the names differs on the planning application form.
3. The description of the proposed development on the Council's decision notice includes, in addition to the creation of a garage, an office above. This is reflected on the submitted plans. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues raised in respect of the appeal are the effect of the development on: -
 - (a) The character and appearance of the area; and,
 - (b) The living conditions of adjoining occupiers.

Reasons

The character and appearance of the area

5. The surrounding area is residential in character and comprises a mix of two-storey detached dwellings and chalet bungalows. The development in this part of St. Faiths Lane varies in terms of design, form and siting and the dwellings
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are set within generous sized plots. I observed that a bank elevates the appeal site above Yeoman Lane and the rear boundary is vegetated with trees. Although the front of the site is partly vegetated the proposal would be visible when viewed from St. Faiths Lane. The spacious layout of the existing development and the openness of the plots and the narrow lane without footpaths gives the development to this part of St Faiths Lane a semi-rural character with a verdant appearance.

6. There is no distinct building line to the properties along St. Faiths Lane. Whilst the footprint of the proposed building would increase, the width would be reduced. The replacement dwelling would be set within a large plot with significant separation to the boundaries. The proposed footprint of the replacement dwelling and new garage, together with their positioning within the plot and overall site coverage, would reflect that of other properties in the surrounding area.
7. Whilst the proposed height of the replacement dwelling would be taller than the adjacent chalet bungalow, Downsview, it would be lower than that of Westways. Although the siting of the replacement dwelling would be closer to Downsview when viewed from St Faiths Lane, the stepped down eaves and ridge heights would create an acceptable visual transition between these adjacent properties and would reflect the incline of the land topography along the Lane.
8. Concern has been raised about the replacement dwelling comprising 3 floors and being large for a family dwelling. The replacement dwelling, by creating a full first storey and accommodation within the roof, would be a larger property than the existing. Although the replacement dwelling would be deeper and taller, it would have an increased separation to the common boundary. Downsview is also set away from the boundary. Whilst the replacement property would overall be a larger building, I do not consider this to be out of keeping with the existing development in the area. The space between the replacement dwelling and Downsview would create adequate separation to ensure the proposal would not appear visually dominant when viewed in context with this property.
9. The new garage to the front would be of modest size and scale and would be stepped back from the front boundary. The existing tree screen to this part of the frontage is shown to be retained. This would ameliorate any visual intrusion of the garage when viewed from the Lane.
10. There is no prevailing style to the development in the area. The proposed architectural design would reflect elements found locally, such as the use of brick and hanging tiles. I consider the design and materials of the replacement dwelling to be acceptable for this location.
11. Although the proposed development would be visible from St. Faiths Lane, which is a designated public right of way, the visual impact of the replacement dwelling would not significantly alter views from the lane or wider area. I am not persuaded on the Council's point that the extent of glazing to the front and rear elevations and their materials, light emittance and glare, would increase the visibility of the building in wider views.
12. I therefore conclude that the proposal would not be harmful to the character and appearance of the area. The proposal would therefore comply with

paragraphs 17, 56, 57, 58 and 59 of the National Planning Policy Framework (the Framework) which seek a high quality of design and to establish a strong sense of place and reflect the identity of local surroundings and materials, amongst other matters.

The living conditions of adjoining occupiers

13. The adjoining property, Downsvue, would have a similar rear building line to that of the replacement dwelling. Downsvue has a glazed conservatory, raised patio and grassed area to rear and a recessed window in the side elevation facing the appeal site. Although other properties in the area have greater space between them, I consider the separation between Downsvue and the proposed dwelling to be adequate.
14. The proposed fully glazed ground floor conservatory would be positioned to the north easterly side to the rear of the replacement dwelling and therefore would be off-set from Downsvue. This separation, together with the hedge and fence running along the common boundary, would limit views from the conservatory toward the Downsvue. I do not consider that significant overlooking would take place.
15. The proposed rear elevation would incorporate large glazed openings and a recessed balcony within the roof pitch. Although two of the four first floor windows would contain Juliet balconies outlook from the rear windows would be directed toward the rear garden. Some oblique outlook could take place toward the adjoining properties but this would be restricted to views of the lower parts of the adjoining gardens.
16. The larger second floor balcony would be recessed into the roof slope and set back from the eaves. The bi-folding access doors would be set back into the recess. This would restrict outlook from the balcony and second floor internal living accommodation. Although some side views from the balcony could take place, this could be restricted by the installation of side screening. The detailed design of the screening could be controlled by condition. I do not consider the installation of such screening would add significantly to the bulk of the overall replacement dwelling. Whilst the balcony would enable activity at an elevated level and be of a size that could be utilised for social and recreational purposes, I do not consider such activity would be to such a degree that would be harmful to the living conditions of adjoining occupiers.
17. I therefore find that that the conservatory, openings in the rear elevation and balcony, individually or collectively, would not create direct overlooking of the adjoining properties or cause undue harm to living conditions. Whilst some perception of overlooking may be experienced in view of the increased size and glazed nature of the proposed development to the rear, this would not be experienced to a degree that would cause undue harm to adjoining occupiers.
18. Concerns have been expressed about the impact of the proposal in terms of its relationship with the side window at Downsvue. This window is recessed and currently experiences restricted light due to the existing boundary hedge. Whilst the replacement dwelling would have an impact, it would not cause significant additional loss of light or outlook. In addition, although the proposed replacement dwelling would be larger than the existing property, the separation between developments would ensure minimal overbearing would take place. Furthermore, the siting of Downsvue to the south east means it

would not be overshadowed. Two first floor side windows proposed in the side elevation of the replacement dwelling would serve en-suites. These windows can be conditioned to be obscure glazed to ensure privacy is maintained.

19. The replacement dwelling would be positioned to the south of the rear garden of the adjoining occupiers at Westways and would have a substantial separation from this dwelling. Whilst the replacement property would be more visible in outlook, the proposal would not cause unacceptable harm to the living conditions of the occupiers.
20. I conclude that the proposal would maintain acceptable living conditions of adjoining occupiers and the proposal would therefore comply with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing occupants of land and buildings, amongst other matters.

Other Matters

21. Concern has been raised to the potential of a sizeable business use occurring, however even though the office would have an independent access, the office above the garage is ancillary to the dwelling.
22. The parking and access arrangement is considered acceptable and would retain adequate space to the front of the property for vehicle parking and turning. I observed that St. Faiths Lane has no pavements, passing places or turning areas. The increase in vehicle movements would not be significant and would not increase the potential for congestion in the lane or compromise highway safety to pedestrians and other road users or give rise to increased noise and disturbance. Any wear and tear to the road by construction traffic or other vehicles would be a matter for those with a collective interest in this private highway.
23. I note that the Draft Maidstone Local Plan has been submitted for Examination albeit the Examination itself is on-going. With due regard to paragraph 216 of the Framework, the plan is clearly advancing towards potential adoption although I am unaware of the extent of unresolved objections to the policies cited by the Council. As a consequence I give moderate weight to the policies listed by the Council in their supporting statement, although they appear to broadly accord with the Framework.
24. None of these matters alter my conclusion that the appeal should be allowed.

Conditions

25. I have considered the planning conditions suggested by the Council in light of paragraph 206 of the Framework and the advice in the Planning Practice Guidance. In addition to the standard time limit conditions and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
26. Those relating to materials and hard and soft landscaping are appropriate in the interests of safeguarding the character and appearance of the area. These elements are fundamental to the acceptability of the proposal and are therefore necessary to be agreed before they are installed. I agree that a condition relating to parking and turning provision is necessary to prevent inconvenience to road users and to ensure highway safety. A condition relating to the obscure glazing of side windows and roof terrace/balcony screening are

necessary to protect the living conditions of adjoining occupiers. I consider a condition relating to ground levels floor levels to be reasonable to ensure the development is carried out at an appropriate land level. I agree that a condition relating to construction work is necessary to ensure the protection of the living conditions of adjoining occupiers and to ensure highway safety is not compromised during construction works and should be agreed before works take place.

27. The Council suggest that access be restricted to the flat roof, however the use of this area for recreational purposes would appear to me to be extremely unlikely as access to this area is not shown on the plans.

Conclusions

28. For the reasons given above, and having regard to all other matters raised and the views of interested parties including those of Bearsted Parish Council and the Bearsted and Thurnham Society, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed 15/615/02A and 15/615/03.
- 3) No development above damp proof course level shall take place until details and samples of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the occupation of the development hereby permitted the side windows in the first floor north east and south west elevations shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the windows shall thereafter be retained as such.
- 5) Prior to the occupation of the dwelling hereby permitted the area shown on drawing number 15/615/02A as vehicle parking space, garage and turning, shall be completed in accordance with the approved plans and thereafter shall be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) or not, shall be carried out on the land or parking spaces indicated or in such a position as to preclude vehicular access to the land or parking spaces.
- 6) No development shall take place until details of the existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development above damp proof course level shall take place until a scheme of both hard and soft landscaping and implementation programme have been submitted to and approved in writing by the local planning authority. All hard and soft landscaping shall be carried out in accordance with the approved details. The landscaping scheme shall be implemented in the first planting season following the first occupation of the building or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planning season with others of similar size and species to those originally planted.
- 8) Prior to the occupation of the development hereby permitted details of the roof terrace/balcony screening shall be submitted to and approved in writing by the local planning authority. The screening shall be put in place prior to the first occupation of the development and shall thereafter be retained.

- 9) Prior to the commencement of development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall be implemented in accordance with the approved details.