

Appeal Decision

Site visit made on 20 February 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/X2220/W/16/3162237

Land adjacent to Wychway, The Rise, Kingsdown, Kent CT14 8DH

- 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 Ms Paula Wilson against the decision of Dover District Council.
 - The application Ref DOV/16/00282, dated 10 March 2016, was refused by notice dated 6 May 2016.
 - The development proposed is a new dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Land adjacent to Wychway, The Rise, Kingsdown, Kent CT14 8DH in accordance with the terms of the application, Ref DOV/16/00282, dated 10 March 2016, subject to the schedule of conditions to this decision.

Main Issues

2. The main issues are the effect of the proposed development on i) the character and appearance of the area, including the nearby Kent Downs Area of Outstanding Natural Beauty (AONB) and ii) the living conditions of neighbouring occupants, with particular regard to privacy.

Reasons

3. The site consists of part of the extensive garden of Wychwood, including the area currently occupied by its detached garage, accessed from Ringwould Road. The site is situated within the settlement boundary of the village of Kingsdown, close to the edge of the village. The boundary of the adjacent AONB lies on the opposite side of Ringwould Road.
4. It is proposed to remove the garage and construct a two-storey house of contemporary design, which would include areas of flat sedum green roof. Due to the topography of the site, the house would appear single storey from the front and two-storey at the rear.

Character and appearance

5. The area is predominantly residential in character, comprising of dwellings of mixed age, design, materials and size, including several examples of comparatively recent infill dwellings. There is also no notable uniformity of plot shapes or sizes. The new house would infill a gap between Wychwood and the neighbouring property Highlands, which fronts onto Ringwould Road. It would be set a little forward of Highlands but would be set back further from the road than the existing garage, meaning it would not be unduly obtrusive in the
-

- street scene. The degree of set-back would also ensure that the house would not create a significant sense of enclosure when viewed from the road.
6. The existing garden is mainly set down from the road level and this, together with the boundary fence and planting, mean that its scale and openness are not particularly apparent from the road, with the roofs of Wychwood and Highlands visible either side. While the new building would occupy some of this space, its modest height would be further mitigated in the street scene by the degree to which it would be set-down from the road level. Therefore, it would not have a significant effect on the established residential character of this part of the village or the transition from the village to the countryside beyond.
 7. Furthermore, a notable separation would be retained in the Ringwould Road frontage between the new house and Wychwood. While the new plot would be smaller, particularly in depth, than some nearby examples such as at Highlands and Barnfield, this would not be significantly apparent in the street scene and would not be particularly at odds with the mixed scale and character of residential plots in the wider vicinity.
 8. The proposed materials and contemporary design would not be at odds with the mixed character of the area. Limited landscaping details have been provided but this is a matter that could reasonably be addressed by condition given the scale and nature of the proposal. The site is largely screened from the adjacent AONB by the hedge and bank along the opposite side of the road, and would be viewed from the AONB against the backdrop of the built extent of the village. Accordingly, I consider that it would have no significant effect on the landscape and scenic beauty of the AONB, the conservation of which is a matter of great weight, as set out in Paragraph 115 of the Framework.
 9. I therefore conclude that the proposed development would not harm the character and appearance of the area, including the nearby Kent Downs AONB. The Council has not referred to any development plan policies in its reasons for refusal. However, I find the proposal to be consistent with Paragraph 17 the Framework, which sets out the core planning principles, including taking account of the different roles and character of different areas, seeking to secure a high standard of design, and recognising the intrinsic character and beauty of the countryside, and with Paragraph 115 as set out above.

Living conditions

10. The proposed development would introduce a degree of additional potential for overlooking of the rear gardens of Highlands and Barnfield, particularly from the rear-facing window of Bedroom 2. However, this window would face towards the rearward parts of the gardens, rather than the areas closest to the houses where a greater level of privacy could reasonably be expected. The Council considers that overlooking would be exacerbated by topography, but because the potential for overlooking would anyway be essentially limited to the less private areas of garden I do not consider that this is a significant factor.
11. The side-facing windows are shown on the plans to be obscure glazed, and this is a matter that could be reasonably secured by condition. Furthermore, the degree of separation and general relationship between the new house and nearby properties would not be at odds with that which can be reasonably expected in a residential area of this kind.

12. I therefore conclude that the proposal would not harm the living conditions of neighbouring occupants, with particular regard to privacy. The Council has not referred to any development plan policies in its reasons for refusal. I find the proposal to be consistent with Paragraph 17 the Framework, which sets out the core planning principles, including seeking to secure a high standard of amenity for all existing and future occupants of land and buildings.

Other Matters

13. I note the Council's view that the considerations in the various appeal examples put forward by the appellant do not apply to this case, and that they do not provide a precedent as each case must be considered on its merits. I agree and I have determined the appeal on its own merits.

Conditions

14. I have considered the various conditions suggested by the Council. I have modified these where necessary for clarity or accuracy. I have not imposed a condition restricting national permitted development rights for outbuildings and extensions as exceptional circumstances have not been justified.
15. In addition to the standard time limit, I have imposed a condition specifying the approved plans as this provides certainty. Conditions relating to materials, levels and landscaping are necessary in the interests of character and appearance. A construction management plan is necessary in the interests of amenity during construction. Conditions relating to obscure glazing, the removal of permitted development rights for additional windows and preventing the recreational use of flat roof areas are necessary in the interests of privacy. Conditions relating to surface water discharge, bound surfacing and parking and turning are necessary in the interests of highway safety. A condition relating to cycle and bin storage is necessary in the interests of the sustainable operation of the development.

Conclusion

16. For these reasons, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TR/2071/PD/01E; TR/2071/PD/02C; TR/2071/PD/03; TR/2071/PD/04; and TR/2071/PD/05B.
- 3) No development shall take place until details of existing and proposed ground levels and sections through all buildings, including levels of thresholds, 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) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of: loading and unloading of plant and materials; on-site parking for construction workers; measures to prevent dirt or other debris from being deposited upon the public highway; hours of construction working; machine operated plant to be used; temporary lighting; measures to control the emission of dust and dirt during construction; and temporary hoarding/fencing. The approved Construction Management Plan shall be fully complied with throughout the construction period, and no burning shall take place on site at any time.
- 5) No development above ground level shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted 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.
- 6) The dwelling hereby permitted shall not be occupied until the side windows to bedroom 2 in the eastern and western elevations and the window to the en-suite bathroom in the eastern elevation, as shown on the approved plans, have been fitted with obscure glazing sufficient to prevent clear through views, and shall be non-opening up to a minimum height of 1.7 m above internal floor level, and shall thereafter be retained as such.
- 7) The dwelling hereby permitted shall not be occupied until a landscaping scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall include hard and soft landscaping; details of hardsurfacing, means of enclosure, gates, tree/hedge/shrub planting plans; written specifications; schedules of species, sizes and proposed numbers/densities where appropriate. Thereafter, the approved landscaping scheme shall be carried out in full within 12 months of the completion of the development. Any trees or other 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 a similar size and species unless the local planning authority gives prior written consent to any variation.

- 8) The dwelling hereby permitted shall not be occupied until the area shown on the approved drawings for vehicle parking and turning space has been provided and surfaced, with drainage installed, and such space shall be retained for that purposes thereafter.
- 9) The dwelling hereby approved shall not be occupied until provision has been made for secure cycle parking and bin storage areas in accordance with details that have been submitted to and approved in writing by the local planning authority. The cycle parking and bin storage provided shall be retained for such purposes thereafter.
- 10) There shall be no access to any areas of flat roof, other than for emergency or maintenance purposes. At no time shall any of the areas of flat roof be used for sitting out or as a roof terrace.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no window, door or other opening shall be inserted in the eastern or western elevations of the dwelling, other than those shown on the plans hereby approved.
- 12) No surface water shall at any time be discharged onto the highway.
- 13) The development hereby permitted shall use a bound surface for the first five metres of the access from the edge of the highway.