
Appeal Decision

Site visit made on 6 January 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/J2210/W/16/3157441

Willow House, Invicta Road, Whitstable, Kent CT5 1PN

- 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 and Mrs Austin against the decision of Canterbury City Council.
 - The application Ref CA/15/02024/FUL, dated 17 September 2015, was refused by notice dated 4 March 2016.
 - The development proposed is the formation of new access and erection of two dwellings with associated car parking and turning areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the living conditions of neighbouring occupiers at Willow House, Malibu, and No 39 Invicta Road, with regard to noise and disturbance.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden of Willow House, a large two storey detached dwelling with a detached garage and driveway. Adjoining the site to the north are the rear gardens of Nos 45, 47 and 49 Invicta Road and side garden of No 37, and to the south is Malibu, a detached house. The Crab and Winkle footpath abuts the site to the east, and playing fields lie opposite the appeal property to the west.
 4. The proposal would involve the erection of two detached chalet style properties in the rear garden of the host property, accessed via a long drive between Willow House and No 39 Invicta Road. The Council's *Residential Intensification Design Guidance* Supplementary Planning Document (SPD) (2008) advises that possible development plots should be of a similar size to those prevailing in the local area and that proposals should reflect the established pattern of development in the vicinity.
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5. The two dwellings would each sit within a substantially smaller plot than that of Willow House. Whilst the plot size would be similar to that of Nos 45, 47 and 49 Invicta Road which abut the appeal site to the west, these houses form part of a recent development with 5 frontage dwellings and 5 dwellings at the rear served by an access road. That scheme is larger in scale and different in nature to the appeal proposal, which only involves backland development. Furthermore, the site layout and orientation of the appeal scheme do not reflect the character of most properties on Invicta Road, which have a street frontage and benefit from long rear gardens. Accordingly, the adjacent development at 31-49 Invicta Road is an exception rather than the predominant pattern of development in the locality, and should not necessarily be followed as a template for development.
6. This part of Invicta Road, adjacent to the appeal site is narrow and enclosed on either side by soft landscaping. This contributes to its quiet, suburban character. A significant section of the mature soft landscaping along the site frontage would need to be removed to facilitate the vehicular access for the proposed dwellings, with the result that they would be visible from the road, particularly Plot 1. The appeal proposal would therefore have a cramped appearance, at odds with the character of the area, which predominantly consists of single dwellings within a generous plot.
7. For these reasons I conclude that the development would harm the character and appearance of the surrounding area. It would be contrary to Policy BE1 of the Canterbury District Local Plan (LP) (2006), insofar as it requires new development to have an acceptable impact on townscape character.

Living conditions of neighbouring occupiers

8. The common boundary with No 39 within the front garden of Willow House is formed of an evergreen hedge above a timber fence, at height of approximately 3 metres, and No 39 has an attached garage with a blank elevation about 1m from the common boundary, whilst the house itself is some distance away. Furthermore, the parking area for Plot 1 abuts the rear garden of No 49 rather than No 37. Given the presence of the mature boundary hedge and the intervening distance to the main flank wall of No 39, I consider that there would be no material harm to the occupants of that property in terms of undue noise and disturbance from pedestrians and vehicle movements along the proposed access and parking areas.
9. Malibu, the property to the south has a long rear projection close to the common boundary with Willow House, but there are no windows to habitable rooms in the rear elevation of that part of the dwelling and the high level first floor windows in the flank elevation are closer to the garage and host dwelling than the proposed development. As such the location of the access and parking areas would have little adverse effect on the occupants of Malibu.
10. However, Willow House would retain only a small rear garden area which would be bounded on two sides by the access for the two dwellings. In addition, the access gate to Plot 2 would be close to the rear boundary fence of Willow House. Consequently the occupants of Willow House would be likely to experience noise and disturbance from pedestrians and vehicles regularly using the road to access the two new dwellings, to the detriment of their living conditions.

11. The appellant considers that there would be adequate separation between the access road and neighbouring properties, and boundary fencing and soft landscaping, along with an appropriate surfacing treatment for the access road would minimise the potential for noise and disturbance, but for the reasons I have described this would not be sufficient to overcome the harm that would be caused.
12. I therefore conclude that the proposal would harm the living conditions of the occupiers of Willow House, with regard to noise and disturbance. It would be contrary to LP Policy BE1 which seeks to safeguard the amenities of adjoining properties.

Other Matters

13. The Council has stated¹ that a legal agreement to provide contributions toward the mitigation of impacts on European Sites has been submitted with the application but there is no copy of this before me. Nonetheless, as I am dismissing the appeal for other reasons I have not pursued this matter with the parties.
14. Concerns have also been expressed with regard to responsibility for road maintenance as Invicta Road is not adopted by the Highway Authority, but this is a private matter for resolution between the relevant parties and outside the scope of this appeal.
15. The Council has also referred to the Canterbury District Local Plan Publication Draft 2014, which is subject to consultation on main modifications and has not yet been adopted. Whilst I can give this document only moderate weight in line with advice in paragraph 216 of the National Planning Policy Framework, the objectives of Policy DBE3 (also variously referred to by the Council as policy BDE3) are broadly consistent with those of LP Policy BE1 in seeking developments which reinforce and respond to local context.

Conclusion

16. For the reasons I have set out above the appeal is dismissed.

Claire Victory

INSPECTOR

¹ Paragraph 4.1 of the Council's Appeal Statement