
Appeal Decision

Site visit made on 26 January 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 28 February 2017

Appeal Ref: APP/G2245/W/16/3162917
30 Dynes Road, Kemsing TN15 6RA

- 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 Ferndale Ltd against the decision of Sevenoaks District Council.
 - The application Ref SE/16/01750/FUL, dated 9 June 2016, was refused by notice dated 10 August 2016.
 - The development proposed is demolition of existing dwelling and construction of 4 No. dwellings (2 pairs of semi-detached dwellings) with access, parking and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of 4 No. dwellings (2 pairs of semi-detached dwellings) with access, parking and associated landscaping at 30 Dynes Road, Kemsing TN15 6RA in accordance with the terms of the application, Ref SE/16/01750/FUL, dated 9 June 2016, subject to the conditions contained within the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - the effect of the proposed dwellings to the rear of the site on the character and appearance of the surrounding area; and
 - the effect of the proposed dwellings to the rear of the site on the living conditions of neighbouring occupiers at 26-28 Dynes Road and houses on Brookfield with particular regard to disturbance from noise and lights, privacy and outlook.

Reasons

Character and appearance

3. 30 Dynes Road is a detached chalet bungalow located at the end of a series of semi-detached dwellings on a clear building line that includes this property, although the neighbour at no. 32 is set further forward. Properties on this side of the road tend to have long rear gardens, although behind no. 32 is the development of Brookfield, with houses backing onto the side of the garden at no. 30.
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4. The proposal would result in a pair of semi-detached houses in approximately the location of the existing dwelling on the site and continuing the building line along the road. Parking would be provided to these two dwellings at the front and these front dwellings would reflect the character and appearance of surrounding development.
5. A pair of semi-detached dwellings are proposed to the rear of the frontage dwellings, with the site incorporating part of the rear garden of 28 Dynes Road, with access between no. 28 and the proposed frontage dwellings. The driveway would provide views between those properties, such that the proposed rear dwellings would be visible. The mature tree close to the boundary with no. 28 is shown to be removed, which would have blocked those views through the site to some extent. Whilst this would be an unusual form of development in this vicinity, the development would be viewed in the context of surrounding residential development. The site is located at a significantly lower level than the road and the present proposal allows space for landscaping surrounding the access drive that would soften the proposed development in brief glimpsed views from Dynes Road, such that it would not be prominent or cause material harm to the character and appearance of the street scene.
6. In addition, the proposed development would be visible from surrounding dwellings fronting Greystones Road and other gardens surrounding the site. However, it is proposed to retain the tall hedge dividing the site from the rear gardens of properties on Brookfield and the trees to the rear that separate the site from properties on Greystones Road, such that landscaping would restrict views of the proposed building from these directions. Views of the side of the proposed building from the rear gardens of houses fronting Dynes Road are more open, with limited proposed landscaping to this side, but the design incorporates a cat slide style roof on this elevation, with hipped roof on the remainder, that would reduce the appearance of bulk of the proposed building. Additional planting is proposed to the boundary separating the proposed building from no. 28, which would soften the proposed development in views from nos. 26 and 28 and gardens further from the proposed development.
7. Given the topography of the site, and the design and layout of the proposed building, retained planting and new planting, the visibility of the proposed development would be minimised from Dynes Road and surrounding properties. This would ensure that the proposed development would not appear cramped within the site and would not be prominent or obtrusive in views from surrounding properties and roads.
8. For these reasons, I conclude that the proposed dwellings to the rear of the site would not harm the character and appearance of the surrounding area. As such, the proposed development would comply with Policies SP1 and LO7 of the Sevenoaks Core Strategy and Policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan (ADMP) that enable infilling and small scale redevelopment that is of a scale and nature appropriate to the village and seek to create high quality design that respects the character and appearance of the site and surrounding area.

Living conditions

9. The rear windows of the existing dwellings at nos. 26-28 would face toward the front of the proposed rear dwellings, with the proposed dwellings angled slightly away from these properties. Both of those properties have been

extended to the rear, with windows facing down their gardens and toward the proposed development. As a result, the proposed development would be visible in views from those houses and their rear gardens. However, the dwellings have been designed with a cat slide style roof to the side that reduces the bulk of the building and the layout indicates an acoustic fence with tree screening that would separate the proposed development from those dwellings. These measures would soften the appearance of the dwellings to a significant degree such that, whilst visible, the proposed development would not dominate those rear gardens or windows and would not be overbearing to the living conditions of occupiers of those dwellings.

10. The proposed dwellings to the rear of the site would be at an angle to the existing dwellings at 26-28 Dynes Road, such that most of the first floor windows of the proposed properties would be angled toward the rear of the proposed dwellings to the front of the site. The closest proposed window would face over the rear part of the garden of no. 28, but would be a bathroom window, which would not result in overlooking of neighbouring occupiers. As a result, and combined with the proposed fence and tree screen separating the proposed rear dwellings and nos. 26-28, I do not consider that there would be unacceptable overlooking of those neighbouring properties.
11. The access drive would be between the proposed frontage dwellings and 28 Dynes Road. A narrow gap would be retained between the access and the rear garden of that neighbouring property that would allow some additional planting and an acoustic fence is proposed to be erected on the boundary. I note that the proposed parking area of the previous appeal scheme that was proposed adjacent to the boundary with 26-28 Dynes Road has been moved away from the boundary and additional tree screening and other landscaping is proposed in this area. The existing tall hedge on the boundary with Brookfield would be retained and most of the access is to the opposite side of the site from those neighbouring properties, although there is some parking proposed close to the boundary. Given the limited number of vehicles likely to be associated with these two dwellings, along with the existing and additional landscaping and acoustic fence, I do not consider that there would be a material effect on neighbouring occupiers either at 26-28 Dynes Road, or properties on Brookfield, from noise, fumes and lights caused by vehicles manoeuvring within this area.
12. The proposal would result in a gap between the boundary with the rear gardens of dwellings fronting Brookfield and the proposed rear dwellings, and the existing tall hedge on the boundary would be retained. Given this hedge and the gap to the proposed dwellings, I do not consider that the proposed development would have an overbearing effect, or result in loss of light, to neighbouring occupiers of those dwellings, even where these have rear extensions. The side wall of the closest dwelling would only contain a single bathroom window such that there would not be overlooking of those neighbouring occupiers.
13. For these reasons, I conclude that the proposed dwellings to the rear of the site would not have a material adverse effect on the living conditions of neighbouring occupiers at 26-28 Dynes Road and dwellings on Brookfield with particular regard to disturbance from noise and lights, privacy and outlook. As such, the proposed development would not be contrary to Policy EN2 of the ADMP that seeks to ensure adequate living conditions for existing and future

occupiers of development. Representations were made to the effect that the rights of a neighbouring occupier under the Human Rights Act 1998, Articles 1 and 8 of the First Protocol, would be violated if the appeal were allowed. However, I have found that the proposed development would not cause unacceptable harm to the living conditions of those neighbours. Any degree of interference that would be caused would be insufficient to give rise to a violation of the rights under Articles 1 and 8 of the First Protocol.

Other matters

14. Concern has been raised as to the adequacy of parking and access. The proposed dwellings would each have 2 parking spaces that I understand would meet adopted standards. The proposal would use the existing access to the dwelling to provide access to three dwellings, with a new access to Plot 1 on the frontage. Whilst there would be additional vehicles using the existing access, the Council have confirmed that this is satisfactory. Landscaping is shown away from the accesses, such that there would be visibility along the road and pavement to either side of the site and additional information on landscaping would be provided in accordance with an appropriate condition.
15. Reference is made to the effect of the loss of a bush that I understand provides habitat for song birds. However, replacement landscaping is proposed and the loss of this bush is unlikely to have a material effect on the habitat of birds. Flooding is mentioned, but no evidence has been presented to support this concern. Concern is expressed that the proposed development would affect the security of neighbouring occupiers, but there is no firm evidence to suggest that the development would lead to increased rates of crime, disorder or anti-social behaviour. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

16. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition is necessary for details of materials to be submitted and approved prior to development commencing as this is fundamental to the scheme and to ensure that the dwellings would maintain the character and appearance of the area. A condition is necessary relating to levels of the development in relation to its surroundings prior to development commencing to ensure it would maintain the character and appearance of the area and to ensure it would not cause material harm to the living conditions of neighbouring occupiers. Approval, implementation and retention of landscaping works, including hard surfacing, means of enclosure and approval prior to development commencing, are necessary in order to ensure the development would reflect the character and appearance of the area. A condition is necessary for no development to take place until a programme of archaeological work is in place to ensure any archaeological remains are appropriately protected during the course of the development, given the location of a probable Roman bathhouse in close proximity to the site. Conditions relating to access and parking are necessary to ensure adequate access into the site and parking is provided on site to protect highway safety and provide for the needs of the development.
17. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in

instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the wholesale removal of these rights. Conditions requiring additional ecological enhancements go beyond what is necessary to make the development acceptable in planning terms

Conclusion

18. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

AJ Steen

INSPECTOR

Schedule of Conditions

- 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 following approved plans: Location Plan, COB/14/665/100, COB/14/665/101, COB/14/665/02A, COB/14/665/103, COB/14/665/07, JB14_07_KB1 rev. A.
- 3) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing 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 levels.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The landscaping scheme shall include the following details:
 - Details of all existing trees, shrubs and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development;
 - Soft plantings, grass and turf areas, trees, shrub and herbaceous areas; their location, species and size;
 - Enclosures, including types, dimensions and treatments of walls, fences (including an acoustic fence in the location indicated on drawing COB/14/665/100), pedestrian and vehicular gates, screen walls, barriers, rails, retaining walls and location, species and size of hedges;
 - Hard landscaping, including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, steps and synthetic surfaces; and
 - Any other landscaping feature(s) forming part of the scheme.
- 6) All landscaping in accordance with the approved scheme shall be completed and/or planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting shall have a two year maintenance/watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of

the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

- 7) No development shall be carried out on the land until the applicant, or their agents or successor in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable, which has been submitted to and approved in writing by the Council.
- 8) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. COB/14/665/100 for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.