
Appeal Decision

Site visit made on 20 March 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 10 April 2017

Appeal Ref: APP/L2250/W/16/3165605

Chelsea Cottage, 6 Dymchurch Road, St Marys Bay, Romney Marsh, Kent TN29 0ET

- 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 Derek Murrum against the decision of Shepway District Council.
 - The application Ref Y16/0434/SH, dated 21 April 2016, was refused by notice dated 9 September 2016.
 - The development proposed is the construction of a new dwelling, demolition of existing outbuildings and provision of new double garages for the new and existing properties.
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Decision

1. The appeal is allowed and permission is granted for the construction of a new dwelling, demolition of existing outbuildings and provision of new double garages for the new and existing properties at Chelsea Cottage, 6 Dymchurch Road, St Marys Bay, Romney Marsh, Kent TN29 0ET, in accordance with the terms of the application, Ref Y16/0434/SH, dated 21 April 2016, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

3. The proposal is for a chalet bungalow with a lean-to single storey projection on garden land behind the two storey house, No 6 Dymchurch Road, together with a pair of double garages to serve the new and existing properties. The appeal site, currently laid to grass, extends behind the neighbouring property No 5, a bungalow. The dwelling would be accessed via a shared private drive running between Nos 6 and 7, another two storey house.
4. The site lies just inside the settlement boundary of St Marys Bay as defined in the Shepway District Local Plan Review 2006 (SDLPR) with open countryside, defined as part of the Romney Marsh Local landscape Area, just to the north. As such Policy HO1 of the SDLPR and Policy SS3 of the Shepway Core Strategy 2013 (SCS) apply which allow infill development in principle.

5. The south western approach to St Marys Bay is characterised by a predominantly linear form of development with a line of detached properties fronting the north western side of Dymchurch Road. There is some variety of building types with bungalows, chalet bungalows and two storey houses, but the plots are relatively uniform in size with the properties set well back behind front gardens and with good sized gardens to the rear.
6. In this context, No 6 occupies an unusual L shaped plot with a significantly larger rear garden than the norm because it also runs behind No 5 next door. The Council do not dispute that the plot is large enough to accommodate the proposed dwelling and that the chalet bungalow design would be acceptable given the variety of house types in the area.
7. The proposal would comprise backland development which would be unusual along this section of Dymchurch Road. However, unlike the frontage housing to the north east, there are two properties just to the west, Nos 1 and 3, which are set back behind the line of frontage houses and accessed by private drives running between those houses. Indeed, No 3, a bungalow, lies partly behind the appeal site, slightly extending the area of existing built development into the open countryside beyond.
8. The unusually large L shaped plot and the two nearby backland properties combine to make the circumstances of the appeal site unique. Consequently, the proposal would not set a precedent for further development in the area.
9. The chalet bungalow would be seen through the gaps between the dwellings fronting Dymchurch Road but, as the Council accept, because of those dwellings it would only have limited visual impact when seen by passers-by. The proposal would barely be seen by those approaching from the south west along the A259 due to the group of intervening properties which include No 1A, a prominent, recently built detached house on the road frontage.
10. The chalet bungalow would be visible from the open countryside to the north and west, including from the Romney, Hythe and Dymchurch Railway which passes about 100 m away. However, there are no public rights of way in the vicinity and the proposal would be seen against the backdrop of the existing linear housing along Dymchurch Road. As such the visual impact of the new building on the open countryside would be minimal and the effect on the Romney Marsh Local Landscape Area correspondingly modest.
11. For these reasons the proposal would not materially harm the character and appearance of the area in compliance with Policies BE1 and CO5 of the SDLPR. These require proposals to adopt a high standard of layout and design, to accord with existing development in the locality where the site and surrounding development are physically and visually interrelated and to protect or enhance the landscape character and functioning of Local Landscape Areas.

Other matters

12. The Council have not objected to the proposal on the grounds of the impact on the living conditions of neighbouring occupiers. The chalet bungalow would be set about 30 m behind the rear elevation of Nos 4, 5, 6 and 7, a sufficiently wide separation distance to prevent any undue loss of privacy or the building appearing overbearing in views from rear facing windows. In addition, the rooflights facing these properties would serve a stairwell rather than habitable

rooms, thus further protecting privacy. The front facing bedroom window of the new property would face towards the rear garden of No 7 and obliquely towards the house but the distance involved and intervening screening would sufficiently protect against loss of privacy. Similarly, the rear facing bedroom windows would face towards No 1 but again the distance and intervening screening would adequately protect privacy.

13. The building would be rather closer to the bungalow No 3 behind, about 18 m, but enhanced screening along the common boundary is proposed and there would only be oblique views of the new property from its windows. In addition, the rooflights facing No 3 would serve an en suite/built in wardrobe and could be obscure glazed to protect privacy. No 3 also has its main garden to the south west which would be unaffected by the proposal.
14. The existing access driveway running between Nos 6 and 7 would see an increase in use but this would not be significant in the context of the noise and disturbance which results from passing traffic on the busy Dymchurch Road.
15. The existing access onto Dymchurch Road meets the necessary highway standards and there is no objection to the proposal from the local highway authority or emergency services. There is no right to a view and any disturbance during construction would only be temporary. The removal of trees from the site did not constitute a breach of planning control. Foul and surface water drainage arrangements can be controlled by condition to ensure they are satisfactory. Any works affecting property outside the control of the appellant are a private matter. Finally, there is no objection to the proposal on the grounds of flood risk.
16. The Council has suggested a number of conditions should the appeal be allowed and I have assessed these against the relevant tests, making minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions are required to control the materials to be used and the height of the dwelling to ensure the satisfactory appearance of the development and to ensure the parking/garaging/turning area is provided in the interests of highway safety. Further conditions are necessary to ensure that hard and soft landscaping and tree planting is carried out and maintained in the interests of visual amenity and a Construction Method Statement is prepared and followed to protect the interests of neighbouring occupiers and highway safety. Conditions to require enhanced water efficiency and details of surface and foul water drainage are necessary to safeguard water supplies in the area and to prevent flooding and/or pollution. A condition requiring the north west facing rooflights to be obscure glazed/non opening is necessary to protect privacy. Finally, a condition to withdraw permitted development rights to extend or alter the dwelling is necessary due to its sensitive location on the edge of the settlement and proximity to other properties. However, I see no reason why normal curtilage buildings should be restricted.

Conclusion

17. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WSS/273505/CC/001 Rev C, WSS/RH/CC/002 Rev D, WSS/RH/CC/003 Rev B, and WSS/273505/CC/004 Rev A.
- 3) No development above slab level shall take place until full details (and samples if requested) of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) No development above the slab level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority including an implementation programme and maintenance schedule. The dwelling hereby permitted shall not be first occupied until the landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed in writing by the local planning authority. The soft landscape works shall then be maintained in accordance with the agreed maintenance schedule.
- 5) Full details of tree planting together with an implementation programme and maintenance schedule, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the dwelling hereby permitted, and the tree planting shall then be carried out in accordance with those details and the implementation programme and maintenance schedule. Any trees 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 written consent to any variation.
- 6) No development shall take place until full details of existing and proposed ground levels and finished slab levels, together with the proposed roof ridge lines and eaves levels of the dwelling hereby permitted (in relation to the existing dwelling, to an Ordnance Survey or other fixed datum level) have been submitted to and approved in writing by the local planning authority. The development shall then be carried out strictly in accordance with the approved details.
- 7) No development shall take place until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving that the dwelling hereby permitted will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator. The dwelling shall not be first occupied until written

documentary evidence has been submitted to, and approved in writing by, the local planning authority proving that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

- 8) No development shall take place until full details of the proposed surface water drainage and sewage disposal arrangements have been submitted to and approved in writing by the local planning authority. The approved arrangements shall then be implemented in full prior to the first occupation of the dwelling hereby permitted and maintained thereafter in a functional condition.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development falling within Classes A, B and C of Part 1 of Schedule 2 to the said Order shall be carried out without the prior approval in writing of the local planning authority.
- 10) No development shall take place (which shall be taken to include any site clearance or stripping of soil) until a Construction Method Statement for the development with details of parking for site personnel, operatives and visitors, the siting of any compounds, the delivery of materials to and from the site, wheel washing, and the proposed times of working, has been submitted to and approved in writing by the local planning authority. The development of the site shall thereafter be carried out in accordance with the approved Construction Method Statement.
- 11) Prior to the first occupation of the dwelling hereby permitted, all roof lights on the north western elevation shall be fitted with obscure glass and made non-opening (unless no lower than 1.7 m above finished floor level) and shall be retained as such at all times thereafter.
- 12) The parking/garaging/turning areas shown on the approved plan shall be provided prior to the first occupation of the dwelling hereby permitted and shall be kept available for domestic parking purposes in connection with the dwelling hereby permitted at all times thereafter.