



Appeal Decision

Site visit made on 19 April 2017

by Megan Thomas Barrister-at-Law

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

Decision date: 10 May 2017

Appeal Ref: APP/E2205/D/17/3169212

1 Primrose Cottages, Lenham Heath Road, Lenham Heath ME17 2BT

- 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 M Froud against the decision of Ashford Borough Council.
 - The application Ref 16/01601/AS, dated 26 October 2016, was refused by notice dated 30 January 2017.
 - The development proposed is the erection of a conservatory following refusal of application 15/00203/AS.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a conservatory following refusal of application 15/00203/AS at 1 Primrose Cottages, Lenham Heath Road, Lenham Heath ME17 2BT in accordance with the terms of the application, Ref 16/01601/AS dated 26 October 2016, subject to the following 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 strict accordance with the following plans all dated 22 October 2016: 16109MF-PP-01, 16109MF-PP-02, 16109MF-PP-03, 16109MF-PP-04, 16109MF-PP-05, 16109MF-PP-06, 16109MF-PP-07, 16109MF-PP-08, 16109MF-PP-09, 16109MF-PP-10, 16109MF-PP-11 & 16109MF-PP-12.
 - 3) The external surface of the section of the proposed south-west facing elevation shown shaded black on plan 16109MF-PP-10 shall be rendered and painted white.

Procedural Matters

2. Whilst there was a conservatory-style single storey rear extension at the appeal site in place at the time of my site visit, it is not constructed in accordance with the submitted plans before me. Therefore, I deal with the appeal on the basis that the development applied for is for what is proposed on the submitted plans. The appeal is not therefore one for retrospective planning permission.
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3. In order to reflect the proper approach to the appeal, I have removed the word “retrospective” from the description of the development given on the planning application form. Furthermore, it appears to me that what is sought is the erection of a conservatory and that on the information available to me relating to the extent of the works, this is a more accurate description than “renovation”. This change does not affect my assessment of the merits of the proposal and no party is prejudiced by these changes in description.

Main Issues

4. The main issues in the appeal are the effect of the proposal on the living conditions of the occupants of no.2 Primrose Cottages with regard to potential surface water ingress, and the effect on the character and appearance of the area of the south-west elevation of the proposed development.

Reasons

Living conditions of neighbours

5. Numbers 1 and 2 Primrose Cottages are a pair of semi-detached dwellings located on a rural road near Lenham Heath. At the rear, there is a brick built wall between the two cottages. Each has a long rear garden. There is a right of way which is adjacent to part of the boundary of the south-east section of the appeal site’s rear garden.
6. The appeal scheme is for a single storey ground floor conservatory-style extension. It would have a dual pitched roof with Kent peg tiles. It would include oak posts and white uPVC windows and doors. No flank windows overlooking the garden of no.2 Primrose Cottages are proposed. The upper part of the south-west elevation would not be built on the garden wall itself, but immediately to the north-east of it. Plan no. 6109MF-PP-09 indicates that the proposed gutter on the south-west elevation is “totally on [the] applicant’s property”. This corresponds to the Certificate served with the planning application. However, any decision about where the boundary lies between nos 1 and 2 Primrose Cottages is entirely outside my jurisdiction. Settling boundary disputes is not a matter within my remit as I focus upon the planning merits of a proposal.
7. The proposed development would include guttering installed by a gutter strap to the eaves fascia board in order to catch surface water running down each pitch of the roof. The half-rounded guttering on the south west elevation of the development would meet with a vertical downpipe on the south-east facing (garden) elevation. I consider this to be an adequate form of surface water drainage for the roof of the extension and do not consider that it would lead to undue ingress of surface water into no.2 Primrose Cottages. If there were problems with the functioning of the gutter system then there is legislation which could aid the occupier of no.1 in securing access to no.2. That is the Access to Neighbouring Land Act 1992. Lack of voluntary access to no.2 Primrose Cottages by the occupants is not a reason warranting refusal of planning permission.
8. Consequently, I conclude that the proposed development would not result in unacceptable living conditions for the occupants of no.2 Primrose Cottages when in their house or garden, as a result of surface water ingress. The

proposed development would not be in conflict with policies CS1 & CS9 of the Local Development Framework Core Strategy 2008, policy TRS17 of the Tenterden and Rural Sites DPD 2010 or policy HG9 of the Ashford Borough Local Plan 2000.

Character and appearance

9. Plan no. 16109MF-PP-10 indicates that a black shaded area on the south west facing elevation of the proposed extension would have a rendered external finish. The evidence indicates that this would be painted white and this is secured by a planning condition. The render and paint would be an acceptable finish in visual terms in keeping with the host dwelling and it would not harm the wider landscape including views from no.2 Primrose Cottages. The Council have raised a point concerning the ability of the occupier of no.1 Primrose Cottages to access the visible part of the elevation in order to render it, given that the current occupiers of no.2 have indicated that they do not intend to allow access. However, if access to no.2 Primrose Cottages is needed in order to undertake the rendering/painting, the Access to Neighbouring Land Act 1992 contains provisions for securing access to neighbouring land.
10. On this second issue, I conclude that subject to planning conditions the south-west elevation of the proposed development would not harm the character or appearance of the host dwelling or the wider area. There would be no conflict with policies CS1 & CS9 of the Local Development Framework Core Strategy 2008, Policy TRS17 of the Tenterden and Rural Sites DPD 2010 or policy HG9 of the Ashford Borough Local Plan 2000.

Other Matters

11. The flank wall of the proposed extension would extend above the garden wall by approximately 28cm. The roof then slopes away diagonally. Whilst there is a window in the rear elevation of the neighbour at no. 2 close to the wall and proposed extension, it is orientated down the garden and I do not consider that the scale or location of the development would adversely affect the outlook from this window in the sense of giving an undue sense of enclosure. Sunlight and daylight reaching that window would be likely to be at acceptable levels. The living conditions of the occupants of no.2 would not be harmed in these respects or in any other respects.
12. Given the single storey nature of the extension with its limited size and height, it does not unbalance the plan form of the cottages and it is clearly a subordinate form of development that sits comfortably on the host dwelling. The design and form of the extension, with a pitched roof and gable end, follows the existing design of the dwelling and is therefore sympathetic in visual and character terms. The use of a brick plinth and weatherboarding is traditional and sympathetic. The windows are well proportioned and acceptable in visual terms. Views from the public right of way would not be harmed.

Conditions

13. I have considered conditions in the light of advice in NPPG. For the avoidance of doubt, I have required the scheme to be built in strict accordance with the submitted plans. In order to protect the character and appearance of the area, I have imposed a condition requiring the render to be painted white.

Conclusion

14. Having taken into account all relevant representations, for the reasons given above, I allow the appeal.

Megan Thomas

INSPECTOR