

Appeal Decision

Site visit made on 19 June, 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: 26th June, 2017

Appeal Ref: APP/X2220/W/16/3165927

Land at 43 Dola Avenue, Deal, CT14 9QH

- 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 Easton Builders Ltd. against the decision of Dover District Council.
 - The application Ref: DOV/16/00998 dated 18 August, 2016 was refused by notice dated 14 October, 2016.
 - The development proposed is the erection of one chalet bungalow and one bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. The Supreme Court handed down judgement on the Suffolk Coastal District Council v Hopkins Homes Ltd and SSLG, Richborough Estates Partnership LLP and SSLG v Cheshire East Borough Council case on 10 May, 2017. Having regard to the judgement, I do not consider that it has any direct implications for the cases of the parties in this appeal.

Main Issues

2. The main issues are the effect of the proposed development on i) the character and appearance of the area and ii) the living conditions of the occupiers of nearby dwellings, with particular regard to outlook and light.

Reasons

3. The site comprises an area of land adjacent to 43 Dola Avenue (No 43), which forms part of a wider site that is currently being developed for 9 new dwellings. The area is predominantly residential in character with a mix of single storey and two-storey properties of mixed sizes and styles. It is proposed to add an additional bungalow, identified as No 2, at the Dola Avenue end of the site, on an area of land between No 43 and the footpath along the front of the site. A detached chalet bungalow, identified as No 24, is proposed at the opposite end of the site, on land between the recently constructed dwellings and the common boundary with 44 Foster Way (No 44). The site lies within the defined settlement confines of Deal and as such there is no dispute between the Council and appellant that the proposal is acceptable in principle.

Character and appearance

4. The development of 9 dwellings currently underway has a strong individual identity and it is proposed that the design and materials of the two additional

- units would reflect the other 9. At the time of my visit, the proposed plot for No 2 was in use principally as a construction related storage area.
5. No 2 would be modest in scale and largely reflective of No 4, albeit perpendicular to that building. It would be set back from the access road serving the development, which would ensure that it would not be unduly prominent in its position adjacent to the access from Dola Avenue. Furthermore, the position of No 2 would be marginally set back from Dola Avenue compared to the nearby bungalow 'Marballing' and so would be no more prominent in the street scene. Moreover, No 2 would be partially screened by the existing boundary wall. I am advised by the Council that this plot was proposed to be largely retained as garden under the permitted scheme, which may have provided a softer appearance to this part of the wider development. However, I am not persuaded that the introduction of the additional modest bungalow here would be significantly detrimental to the character and appearance of the development or its surroundings.
 6. No 24 would occupy a plot at the end of a run of new semi-detached chalet bungalows, adjacent to the turning head. It would be positioned in sequence with this run of buildings and would have very limited effect on the street scene from Dola Avenue, being separated by some distance. I am again advised that the plot was proposed to form a garden area under the permitted scheme, which would give a pleasant, spacious character to this end of the development. However, given that the siting, scale and design of No 24 would reflect that of the adjacent new buildings, I consider that the character and appearance of the wider development, of itself, would not be significantly altered by the introduction of this additional unit.
 7. Notwithstanding, this end of the development, and particularly the plot which would accommodate No 24, is clearly visible from Foster Way. From there, the plot offers separation between the individual style of the new development and existing houses in Foster Way, particularly Nos 44 and 42. This gap provides a sense of openness between the two streets and is currently dominated by a tall tree. No 24 would significantly erode this openness, partially obscuring the tree from Foster Way, which would result in a cramped appearance to this end of the development when viewed from Foster Way. Furthermore, No 24 would present a rear elevation to Foster Way, bounded by a wall enclosing the dwelling from the road, which would be generally out of keeping with the front elevations interacting with the road in this vicinity. For these reasons, No 24 would appear out of keeping with the general form and pattern of development of the surrounding area.
 8. In light of the above, I conclude that the proposed development would significantly harm the character and appearance of the area. This would be contrary to the aims of the National Planning Policy Framework (the Framework), in particular Paragraphs 17, 58, 60 and 64 which among other things seek high quality design that responds to local character, promotes local distinctiveness and takes opportunities to improve the character and quality of an area. Paragraphs 59 and 61 are of no significant relevance to this appeal in that they respectively relate to design codes and policies and to connectivity between people and places.

Living conditions

9. No 2 would be positioned close to the common boundary that would be provided between it and No 43. It is proposed that the boundary would be treated with a 1.8m panel fence, which would lie a short distance from a principal elevation of No 43 in which there are windows to habitable rooms. The Council advises that the separation would be approximately 3.9m to the fence, with No 2 around 2m beyond. No 2 would be set roughly to the north east of No 43, and as a result of this orientation no loss of sunlight to No 43 would occur. The degree of separation and the single storey nature of No 2 would mean that there would be no significant loss of natural daylight experienced at No 43.
10. However, No 43 would become surrounded by dwellings on all sides as a result of the introduction of No 2, which would be likely to result in a significant sense of enclosure that would be detrimental to the living conditions of occupiers of No 43, notwithstanding that a modest area of garden would surround it on all sides. This effect would be exacerbated by the proximity of the 1.8m fence on the boundary with No 2, and to some degree the new bungalow itself, which would reduce the outlook from the principal north east elevation of No 43, albeit it would be principally the sloping roof of No 2 that would be visible above the fence from No 43.
11. No 24 would be positioned fairly close to the common boundary with No 44. No 44 is set back from Foster Way and is significantly set back from its immediate neighbour 42 Foster Way (No 42). The new chalet bungalow would be positioned closer to the road in Foster Way than No 42, and substantially closer than No 44. The result of this would be a tunnelling effect to No 44, which would result in an unacceptable sense of enclosure affecting the outlook from the front elevation of that house, where there are principal windows to habitable rooms. However, given that No 24 would be orientated roughly to the north of No 44, no significant loss of light would occur. I also note that No 44 has a long garden at the rear but this does not alter my concerns regarding the effect of the proposed development at the front of the property.
12. For these reasons, I conclude that the proposed development would significantly harm the living conditions of the occupiers of nearby dwellings, with particular regard to outlook. This would be contrary to the aims of the Framework, in particular Paragraph 17 which among other things seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings, and Paragraph 58 which among other things seeks to ensure comfortable places to live, work and visit.

Other Matters

13. I have considered the various benefits that the development would bring, including that it would make use of currently vacant plots in an urban area. The additional houses would also contribute to local housing supply and the local economy. However these benefits would be modest in relation to two dwellings and so do not outweigh the harms I have identified above.
14. Contrary to the Council's view that the two additional plots represent garden areas in the permitted scheme, the appellant states that both plots would remain outside the residential curtilages of the dwellings recently constructed. They further consider that the landscaping condition relating to the planning

permission would only secure landscaping maintenance for 5 years and the result could ultimately be plots left vacant and unkempt. Copies of the permitted plans have not been provided with this appeal. Nevertheless, there is no significant evidence before me that the appeal plots would not be maintained in reasonable condition in the future, whether as gardens or otherwise, and therefore this also does not outweigh the harms I have identified above.

15. The appellant is also of the view that the planning permission for 9 units sets a precedent for development of this type and density. While in considering the main issues I have had regard to that development, which I saw during my site visit, I have determined the appeal on the evidence and merits of the case before me.

Conclusion

16. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Catherine Jack

INSPECTOR