
Appeal Decision

Site visit made on 24 July 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/X2220/W/17/3173645

The Caravan, Westcourt Lane, Shepherdswell, Dover CT15 7PS

- 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 Charlie Friend against the decision of Dover District Council.
 - The application Ref DOV/16/01444, dated 13 December 2016, was refused by notice dated 10 March 2017.
 - The development proposed is the erection of two semi-detached dwellings and creation of an access.
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Decision

1. The appeal is allowed and planning permission is granted for is the erection of two semi-detached dwellings and creation of an access at The Caravan, Westcourt Lane, Shepherdswell, Dover CT15 7PS in accordance with the terms of the application, Ref DOV/16/01444, dated 13 December 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of proposed development provided on the planning application form has been replaced by a fuller version in the Council's decision notice. The appellant has used the same description of proposed development in the appeal application form. For consistency I have used it here.
3. The Council has granted planning permission for the erection of a pair of semi-detached properties at the appeal site under Council Ref DOV/13/01090. I observed that a pair of semi-detached dwellings has been erected within the boundaries of the appeal site.

Main Issues

The main issues raised in respect of the appeal are the effect of the proposed development on: -

- (a) The character and appearance of the area; and
- (b) The living conditions of adjoining occupiers.

Reasons

Character and appearance

4. The appeal site is located behind residential properties that front onto Coxhill Road and Westcourt Lane. New semi-detached dwellings have been erected to the south western part of the appeal site. The proposed development would be positioned adjacent to these new dwellings and have a matching front and rear building line. The Council has confirmed that the appeal site falls within the settlement boundary.
5. I note the findings of an Inspector in an earlier appeal for the erection of two pairs of semi-detached dwellings and construction of vehicular access at the appeal site following the Council's refusal of planning application Ref DOV/11/00132. However, since that decision the circumstances at the appeal site have changed as a pair of semi-detached dwellings has been erected at the appeal site. Their siting to the south western side of the appeal site has created a gap between that development and the north eastern boundary of the appeal site and the dwellings beyond.
6. The proposed development would therefore be surrounded on three sides by existing built development and infill a gap between existing built developments. Whilst the proposal would intensify urbanising development in this location I do not consider that there would be an appreciable transformation of the character and appearance of the area.
7. I note the Council raises concerns about the design of the proposed development. However, the size, form, design and materials, along with the hipped roofs, would create a development of similar appearance to that of the recent semi-detached dwellings built at the appeal site. Furthermore, I do not share the Council's view that the design, incorporating side entrances and horizontal emphasis to the windows within the front elevation, is poorly conceived. The development would reflect the proportions and design of the existing semi-detached dwellings at the appeal site, although it would not replicate them.
8. Further to the above, I observed that a driveway has been created to the side of the existing semi-detached dwellings. The proposed small rear parking courtyard would make use of this existing access. The proposal would not add a significant amount of additional hard surfacing at the appeal site. All properties at the appeal site would have front and rear gardens. I do not consider that an overly formalised layout would be created.
9. I therefore do not consider the proposed development, when considered as part of the existing surrounding built development in the area, would appreciably urbanise the character and appearance of this location or be out of keeping with the pattern of development that has been established.
10. For these reasons, I conclude that the proposed development would not significantly harm the character and appearance of the area. Policy DM15 of the Dover District Council Core Strategy seeks to protect the countryside by preventing development which would result in the loss of, or adversely affect the character or appearance, of the countryside. The proposal would not conflict with this policy. I also find that the proposed development would not conflict with bullet point five of the core planning principles of paragraph 17 of

the National Planning Policy Framework and paragraphs 56, 61 and 64 that seek development to take account of the different roles and character of different areas and that require high quality design.

Living conditions

11. Due to the orientation of the proposed development to 3, 5 and 5a Westcourt Lane some overshadowing would take place during the course of the day. However, I note that there are a number of tall evergreen trees and other trees and planting running along the rear boundaries of these adjoining properties. These properties also have reasonably long rear gardens. Although some overshadowing of the gardens would take place, in my judgement the effect would be quite limited as the existing trees would cast a shadow over the gardens at the same time of day as the proposed development .
12. For these reasons, I conclude that the development would not harm the living conditions of adjoining occupiers. I find that the proposed development would not conflict with bullet point four of the core planning principles (paragraph 17) of the National Planning Policy Framework that seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

13. In reaching my decision, I have also considered the concerns raised in respect of vehicle movements and highway safety, with particular regard to the access and its junction with Westcourt Lane. I note that the Council did not raise highway safety as an issue, and I do not consider highway safety would be compromised or that the more intensive occupation of the appeal site would lead to problems occurring. Concern is also raised about the existing surface water run-off from the site. Matters relating to drainage would be subject to Building Regulations.
14. None of these matters alter my conclusion that the appeal should be allowed.

Conditions

15. I have considered the planning conditions suggested by the Council in light of paragraph 206 of the National Planning Policy Framework and the advice in the Planning Policy Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
16. A condition relating to materials is appropriate in the interests of the character and appearance of the area, as is a condition relating to hard and soft landscaping which can ensure appropriate landscaping, boundary treatments and surfacing materials are put in place. A refuse and recycling storage facility condition is necessary to ensure the protection of the character and appearance of the area and the living conditions of adjoining occupiers. A cycle storage facility condition would encourage sustainable travel as an alternative to private vehicle. A condition relating to parking provision and turning is necessary to prevent inconvenience to road users and to ensure highway safety.
17. It is appropriate to ensure the protection of trees within adjoining gardens, both for their visual value and in the interests of the existing occupiers' living conditions. I consider a condition relating to finished floor levels to be

reasonable to ensure the development is carried out at an appropriate land level. A condition relating to a construction management plan is necessary to ensure the protection of the living conditions of adjoining occupiers and to ensure highway safety is not compromised during construction works. These conditions are fundamental to the acceptability of the proposal and therefore are necessary to be agreed before development takes place.

18. I consider a condition relating to the prevention of surface water running onto the highway to be unnecessary as this would be a matter for Building Regulations. An access driveway has already been put in place at the appeal site therefore I consider a condition relating to bound surfacing to be unnecessary. The Council suggest that an obscure and fixed shut bathroom window and cill height restriction is put in place, but the Council has not explained what they seek to achieve or what harm would occur if this did not take place.
19. The Council considers that the removal of Class A and B of Schedule 2, Part 1 of the Town and Country (General Permitted Development) Order 2015 permitted development rights would be appropriate. It is not entirely clear what harm might occur to the living conditions of adjoining occupiers or to the character and appearance of the area if such permitted development rights were implemented at the development. I refer to the advice in the Planning Practice Guidance which states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider there to be exceptional circumstances here.

Conclusions

20. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 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 approved plans listed EMA-2016-110-01 Revision 02 and EMA-2016-110-02 Revision 02.
- 3) No development above ground floor slab level of any part of the development hereby permitted shall take place until the materials to be used in the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The details shall include all landscaping, boundary treatments and surfacing materials. The hard and soft landscaping shall be carried out in accordance with the approved details and in accordance with an approved timetable.
- 5) Prior to first occupation of the development hereby permitted, details of the refuse and recycling storage facility shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage facility shall be implemented in accordance with the approved details and made available for use prior to the first occupation of the development and shall thereafter be kept available for such use for the lifetime of the development.
- 6) Prior to first occupation of the development hereby permitted, details of the secure cycle parking facility shall be submitted to and approved in writing by the Local Planning Authority. The secure cycle parking facility shall be implemented in accordance with the approved details and made available for use prior to the first occupation of the development and shall thereafter be kept available for such use for the lifetime of the development.
- 7) The vehicle parking and turning areas shown on the plans hereby approved shall be laid out for parking and turning and thereafter shall be kept available for parking and turning provision for the lifetime of the development.
- 8) Prior to the commencement of development hereby permitted details of measures to protect the existing trees in the adjoining gardens of 3, 5 and 5a Westcourt Lane and their root systems shall be submitted to and approved in writing by the Local Planning Authority. The trees and root protection measures shall be carried out in accordance with the approved details.
- 9) Prior to the commencement of development hereby permitted details of the thresholds and finished floor levels and relationship to adjoining dwellings shall be submitted to and approved in writing by the Local

Planning Authority. The thresholds and finished floor levels shall be carried out in accordance with the approved details.

- 10) Prior to the commencement of development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be carried out in accordance with the approved details.