
Appeal Decision

Site visit made on 5 June 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/X22209/W/19/3224966

Land to the rear of the Leather Bottle PH, St Richard's Road, Deal, Kent CT14 9LH

- 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 D Warwick against the decision of Dover District Council.
 - The application Ref DOV/18/00834, dated 3 August 2018, was refused by notice dated 23 October 2018.
 - The development proposed is erection of a new dwelling, amended existing public house parking and access improvements.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling, amended existing public house parking and access improvements at land to the rear of the Leather Bottle PH, St Richard's Road, Deal, Kent CT14 9LH in accordance with the terms of the application, Ref DOV/18/00834, dated 3 August 2018, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the development on (a) the character and appearance of the area and (b) the living conditions of adjoining occupiers in relation to overlooking and proposed occupiers in relation to disturbance from the public house garden.

Reasons

Character and appearance

3. The Leather Bottle Public House is a 2 storey building on the corner of St Richards Road and Mongeham Road with a small car park at the rear of the site with access from St Richards Road. To the rear of the building land rises sharply to a patio and pub garden that extends along the St Richards Road frontage where there is a high wall with a row of trees behind. On the eastern side of the pub garden is an irregular shaped plot where it is proposed to erect the house.
4. The surrounding area is predominantly residential but mixed in form. There are several older buildings constructed on the back edge of the footway or close to it, such as 410 St Richards Road, a detached house adjacent to the pub car park, and the terraced houses opposite. Conversely, 412 St Richards Road is a detached house set well back from the road frontage; it has an access adjacent to that to the pub car park and its front wall faces towards these accesses.

5. The proposed house would be similarly set back from St Richards Road and close to no. 412; its siting would not therefore be out of character with the area. In association with no.412 it would form a small cluster in this recessed setting. The house would be side on to rather than facing the road, but its flank wall would not be unduly conspicuous given the distance it would be set back from the road, the rise in ground levels and the screening effect of boundary trees. The house's scale and form would be similar to that of other 2 storey detached buildings with a pitched roof nearby. Its design would be traditional with gables over a two storey front bay window and entrance porch and matching fenestration elsewhere. It would not look out of place in this setting of mixed designed buildings.
6. The proposal would be in accordance with Paragraph 127 of the National Planning Policy Framework (the Framework) in that it would function well and add to the overall quality of the area, be visually attractive as a result of good architecture and layout and be broadly sympathetic to local character and history. There would not be conflict with Paragraph 130 of the Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. The proposal would also be compatible with Policies CP1, CP2 and CP3 of the Dover District Core Strategy (2010) which accept the principle of new housing in this part of Deal.

Living conditions

7. The rear facing first floor bedroom windows would face towards 101 Mongeham Road, but the potential for any material loss of privacy through overlooking would be mitigated by the separation distance of about 22m and retention of vegetative screening along much of the common boundary between the adjacent back gardens. The first floor front bedroom window would face towards the rear garden of 410 St Richards Road, but would not result in any material overlooking or loss of privacy in view of the separating distance, the fence to the driveway to no.412 and the boundary wall to no.410 beyond this. The angle would be too acute for any overlooking of rear windows at no.410.
8. The proposed house would be sited closer to no.412 but on much lower ground by approximately one storey. The outlook from the front windows of the proposed house would be across the frontage of no.412, already open to public view, and would not result in any material loss of privacy to occupiers of the dwelling. A first floor window to a bathroom would face the rear garden to no.412, but this would be obscure glazed, a matter which could be controlled by a planning condition. The siting of the building on lower ground would ensure that there would not be any material overshadowing of the garden.
9. The proposal would not result in a material adverse effect on the living conditions of the occupiers of adjacent dwellings and would be compatible with Paragraphs 127 and 130 of the Framework in relation to its design and in provision of a high standard of amenity for existing users.
10. A fence would separate the back garden to the proposed house from the garden area to the public house. The patios adjacent to the rear and the side of the public house are the main external sitting out area for its customers. These areas are on lower ground than the proposed house and are already as close to other houses, such as 101 Mongeham Road. In the summer months in fine weather it is likely that customers would also choose to use the grassed area

closer to the proposed house. However, any disturbance would be equally close to houses on the opposite side of St Richards Road. It is my judgement that customer use of the garden to the public house would be unlikely to result in such a level of noise and general disturbance to warrant dismissal of the appeal on this ground. The proposal would function well over the lifetime of the development and would not conflict with Paragraph 127 of the Framework in relation to the amenities of future occupiers.

Other matters

11. The site is close to the Thanet Coast and Sandwich Bay Special Protection Area (SPA) which could be subject to increased recreational pressure through additional housing. The Council has agreed a mitigation strategy with Natural England for reducing the harmful effects of housing development on the SPA through seeking contributions only from proposals in excess of 14 dwellings; it is satisfied that no financial contribution or other mitigation measures are required to protect the integrity of the SPA.
12. I am mindful of the representation received from local residents against the proposal. The recent clearance of trees at the site has resulted in a loss of a pleasant outlook, albeit on to land in other ownership. The change in the view to land now to be used as parking areas for the new dwelling and the public house does not amount to sufficient reason to dismiss the appeal.
13. The officer report states that the Council cannot demonstrate a 5 year supply of housing, but the Council's appeal statement claims that it now can. Regardless of this, the proposal would result in the provision of one additional dwelling in a sustainable location that would contribute towards the general housing need.

Conclusion and Conditions

14. The proposal would be acceptable in relation to the character and appearance of the area. It would not adversely affect the living conditions of adjoining occupiers in relation to overlooking or the living conditions of proposed occupiers in relation to disturbance from the public house. For the reasons given, and having regard to all other matters raised, the appeal is allowed.
15. In addition to the statutory condition limiting to 3 years the period for commencement of the permission, a condition is necessary to list the approved plans in the interests of certainty and to enable the submission of minor material amendments should this be expedient. Pre-commencement conditions are necessary to approve details of drainage arrangements and to establish the site level for the building ahead of construction works as these steps involve ground works. Conditions are necessary to approve details of materials to be used in the external surfaces of the building and for the landscaping of the site to ensure a satisfactory appearance to the development. Conditions are also needed to ensure that the access and parking arrangements and refuse and cycle stores are provided as shown on the approved plans. Finally, a window condition is necessary to ensure privacy in relation to a bathroom window.

Rory MacLeod

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 MV/2139/PD/01 & 02.
- 3) No development shall take place until a scheme for the proposed disposal of sewage shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, 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 above ground level until samples 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 be carried out in accordance with the approved samples.
- 6) No development shall commence above ground level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping including details of hard surfacing, drainage for the hard surface areas and means of enclosure between the new dwelling and the pub garden. The development shall be carried out in accordance with the approved details.
- 7) The areas shown on the approved drawings as the access, driveway and vehicle parking spaces shall be provided, surfaced and drained before the first occupation of the approved dwelling and shall be retained as such and for these purposes thereafter.
- 8) The development hereby permitted shall not be occupied until the refuse storage area and cycle spaces for the approved dwelling shall have been constructed in accordance with details shown on the approved plans.
- 9) The dwelling hereby permitted shall not be occupied until the ensuite bathroom window at first floor level facing north-east has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.