
Appeal Decision

Site visit made on 23 July 2019

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State.

Decision date: Thursday, 15 August 2019

Appeal Ref: APP/X2220/W/19/3228423

Land at 5 Mill Bank Cottages, Mill Lane, Eastry, Kent CT13 0LG

- 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 A Bayliss against the decision of Dover District Council.
 - The application Ref 18/01266, dated 27 November 2018, was refused by notice dated 6 March 2019.
 - The development proposed is a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The council's decision notice indicates that outline planning permission was refused. However, all other documentation makes it clear that the application was for full planning permission and I have therefore proceeded on that basis.

Main Issues

4. The main issues are:
 - The effect on the proposed development on the character and appearance of the area; and,
 - The adequacy of the living conditions of future occupants with particular regard to privacy.

Reasons

Character and Appearance

5. The site is located at a bend within Mill Lane, adjacent to the junction with Gore Lane. The surrounding area features a mixture of detached and semi-detached dwellings, consisting of bungalows and two and three storey dwellings. There is significant variety to the scale, form and appearance of the dwellings of the

area, but the use of pitched roofs to the main part of the dwellings and the conventional materials and traditional architecture are consistent features that define the character of the area and provide a transition from the settlement into the nearby countryside. The ground levels of the locality change significantly which results in most dwellings to the south and east of the site being elevated in comparison to the roads. Retaining walls and banks are also common. The appeal site reflects these features as the dwelling and the main garden area are elevated from Mill Lane and retaining walls are a prominent feature of the north and west boundaries of the site.

6. The development would see the removal of part of a retaining wall and the relocation of an existing outbuilding in order to enable the erection of a two storey dwelling. The main entrance to the dwelling would be at the lower ground level adjacent to the grass verge at the site frontage and the first floor accommodation would be level with the raised ground level of the existing garden.
7. The dwelling would terminate the view from within Gore Lane and would therefore be a prominent addition to the immediate locality. However, due to the raised ground levels of the area and the position at the bend, the visual impact of the development would be relatively localised.
8. The layout of dwellings and the changing ground levels means that the arrangement of existing dwellings is not uniform. There are several buildings in close proximity to Mill Lane to the south and east of the appeal site and therefore the close proximity of the building to the road is not particularly unusual or at odds with the established grain of development.
9. The retaining walls, landscaped earth banks and other such features of the area are reflective of the changing ground levels and in themselves indicate that natural ground levels have been altered or managed in the past. This is also demonstrated by some of the dwellings of the adjacent Herendon View which have followed a similar approach as the proposed development. Therefore, the requirement to undertake extensive ground works would not be in conflict with the pattern of surrounding development and would enable the development to bridge the height difference between the dwellings of the area.
10. However, the appearance of the dwelling, as a result of the combination of flat and mono-pitched roofs and the fenestration and detailing of the dwelling, would be far more contemporary than the other dwellings of the area. This would represent a marked change in comparison to the established character of the locality which would conflict with the edge of settlement character that is described above. Whilst paragraph 127 of the National Planning Policy Framework indicates that appropriate change should not be prevented or discouraged, it also requires that development is sympathetic to local character and, in this instance, the significant divergence from the established local character conflicts with this aim of the Framework.
11. Therefore, whilst I afford weight to the design quality of the dwelling, the proposal fails to show suitable consideration of the established local character and would therefore have a jarring and incongruous visual impact in this context. This would be exaggerated as a result of its prominence in views from the adjacent junction.

12. The proposal would therefore have an unacceptable impact on the character and appearance of the area, contrary to paragraph 127 of the Framework which requires that development is sympathetic to local character and maintains a strong sense of place.

Adequacy of Living Conditions

13. The neighbouring dwelling (Solent) features two windows that face the appeal site. The height of these windows relative to the appeal site is disputed by the main parties, but it is apparent that the height of the windows exceeds the height of the existing outbuilding and the submissions show that the ground level of the proposed garden would be comparable to the existing, which rises towards the shared boundary.
14. The positioning of the existing outbuilding and its bulk provides a degree of screening for part of the existing garden. Furthermore, the size of the existing garden and the separation distance between dwellings provides reasonable living conditions to the occupants of both properties. The relocation of the outbuilding means it would not provide screening of the garden of the proposed dwelling, which is smaller in area and as such the occupants would be more dependent on this space than the existing dwelling is.
15. Without mitigation, the windows of Solent would enable residents of that property views into the garden of the proposed dwelling. The direct outlook would be towards the part of the garden that is furthest from the proposed dwelling but there would be an angled view towards the extensively glazed rear elevation of the dwelling and the parts of the garden that are most likely to be regularly used. As such the future occupants of the proposed dwelling could experience and have a perception of being overlooked.
16. To address this the applicant has indicated that a 1.8 metre boundary fence could be provided on the higher ground that exists at the boundary of the site and a plan has been provided which demonstrates that this would be effective in terms of preventing overlooking. This fence would be set a sufficient distance from the neighbouring dwelling to not have an unduly overbearing effect. The submissions show that the boundary enclosure would be supplemented by planting which would offer some additional screening, but this cannot be wholly relied upon as its subsequent retention would be difficult to secure and its effectiveness is unknown.
17. For the reasons set out above, subject to adequate mitigation being secured through the imposition of a condition, the development would not be unacceptable in terms of the living conditions of future occupants, with particular regard to the privacy afforded to the proposed dwelling and garden. The proposal would therefore accord with paragraph 127(f) of the Framework which requires that development provides a high standard of amenity for future users.

Planning Balance

18. Bringing together my conclusions on the main issues I have found that the development would have an unacceptable effect on the character and appearance of the area but would be able to provide satisfactory living conditions for future occupants.

19. The appellant and interested parties have identified several benefits of the proposal including potential energy efficiency credentials, the inclusion of a green roof and the provision of waste and cycle storage and parking. I also note that the proposal would represent a boost to housing supply, but equally both parties agree that the Council can now demonstrate an adequate supply of housing land. Despite comments to the contrary, the provision of parking controls would not be able to be secured as part of this proposal and, as only one dwelling is proposed, the additional support that this dwelling would offer to local bus services would be negligible.
20. No conflict with a development plan has been identified by the Council and as such I have regard to paragraph 11 of the Framework which states that planning permission should be granted where there are no relevant development plan policies unless any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not represent sustainable development.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR