The Planning Inspectorate

Appeal Decision

Site visit made on 17 September 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/H2265/W/19/3232668
278 Lunsford Lane, Larkfield, Aylesford ME20 6HU

- 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 J Hooper against the decision of Tonbridge & Malling Borough Council.
- The application Ref TM/19/00749/FL, dated 26 March 2019, was refused by notice dated 28 May 2019.
- The development proposed is the erection of a dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at 278 Lunsford Lane, Larkfield, Aylesford ME20 6HU in accordance with the terms of the application, Ref TM/19/00749/FL, dated 26 March 2019, subject to the following 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: 02; 10 Revision A; 11; 12; 13; and 14.

   3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be finished in accordance with the details shown on the approved plans.

   4) The development hereby permitted shall not be occupied until the new vehicular access, parking and manoeuvring area has been laid out in accordance with drawing number 11 and the parking and manoeuvring area has been constructed in permeable materials to allow surface water to drain within the curtilage of the site. The vehicular access, parking and manoeuvring area shall be retained at all times thereafter.

   5) The development hereby permitted shall not be occupied until the rooflights in the north-western facing rear elevation of the building have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The obscured glazing shall be permanently retained thereafter.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no upper floor windows or dormer windows other than those expressly authorised by this permission shall be constructed on the north-western facing rear elevation of the dwelling hereby permitted.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no porch shall be constructed on the building.

Preliminary Matters

2. The appellant submitted Certificate B with the planning application, which certifies that requisite notice has been given to everyone else who on the day 21 days before the date of the application was the owner of any part of the land to which the application relates. In this case, Certificate B certifies that notice was served on Kent County Council Highways (KCC) and Roger Malcolm Limited on 2 April 2019. This relates to an open grassed area outside the curtilage of No 278 Lunsford Lane where the new vehicular access to serve the proposed dwelling would be sited.

3. On the appeal form, the appellant has completed Certificate A, which certifies that on the day 21 days before the date of the appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates. The appellant has clarified that following the serving of a notice on Roger Malcolm Limited on 2 April 2019 it was found that the company was dissolved in October 2013 and therefore it was not possible to serve notice of the appeal to this party.

4. The requirement for certificates of ownership is to ensure that owners of land are aware of development proposals which may affect their property, allowing them the opportunity to become engaged in the application process. Given that Roger Malcolm Limited has been dissolved there would be no prejudice caused to this party.

5. KCC raised no objection to the planning application following the appellant's service of a notice under the requirements of Certificate B. Furthermore, the Council has previously granted a Lawful Development Certificate on 21 November 2017 (Ref TM/17/02698/LDP) for a vehicular access on the land. For these reasons, no prejudice would be caused to the interests of KCC.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is located in an established residential area which predominantly consists of detached and semi-detached dwellings of varied size and design. Whilst No. 278 Lunsford Lane is part of a linear row of dwellings, the pattern of development in the area is mixed and includes cul-de-sacs accessed from Lunsford Lane and Gighill Road. There are a range of plot sizes in the area and the garden of No. 278 is large compared to most properties.

8. The subdivision of the rear garden of No 278 would result in a smaller rear garden for the existing dwelling, however it would be comparable in size to the adjoining garden at No 280. Furthermore, the plot size of the proposed dwelling would be within the range of neighbouring plot sizes in the area.

9. The front of the proposed dwelling would face Gighill Road and would therefore achieve good legibility and provide an active street frontage, which would enhance natural surveillance of the street. The front elevation of the proposed dwelling would be roughly level with the side elevation of No 278, which would provide an appropriate set-back from the street to ensure that the dwelling would not appear cramped or dominant in the street scene. Moreover, the proposed dwelling would provide a sizeable separation to the neighbouring properties in Lunsford Lane and Bronte Close, which ensures that it would sit comfortably in the street scene.

10. I note the concern from the Council and the Parish Council that no houses front Gighill Road. However, the proposed dwelling would be viewed in context of the neighbouring houses to the south of the roundabout junction with Lunsford Lane which face the road. Whilst I acknowledge that the properties adjacent to Gighill Road generally have their side or rear elevations orientated towards the road, this layout results in an inactive frontage caused by long solid boundary walls and fences. The proposed development would enhance the character and appearance of the street scene by introducing habitable windows that would overlook the street.

11. The Parish Council has also raised concerns about the impact of the proposed vehicular access on the appearance of the open grassed area adjacent to Gighill Road. However, taking into account the fallback position that a Lawful Development Certificate has previously been granted for a vehicular access across the land, as referred to above in paragraph 5, this would not be sufficient grounds to withhold planning permission.

12. The design and form of the proposed development would provide an acceptable appearance and would integrate satisfactorily with its surroundings, which includes dwellings of varied size and design.

13. For the above reasons, I conclude that the proposed development would not be harmful to the character and appearance of the area. The proposal would therefore comply with Policy SQ1 of the Managing Development and the Environment Development Plan Document April 2010, Policy CP24 of the Tonbridge and Malling Local Development Framework Core Strategy 2007 and paragraph 127 of the National Planning Policy Framework, which, amongst other things, seek to ensure that development is well designed and respects the character and appearance of the site and its surroundings.

Other Matters

14. I have had regard to the concerns raised by the occupiers of neighbouring properties, which, in addition to the above matters, include: loss of privacy; loss of outlook; loss of light; vehicular noise and fumes; hazardous to walkers; cars may park on the grass; trees will be felled; and loss of nesting bird habitats.

15. The rear dining room and living room patio doors of the proposed dwelling would not cause a significant loss of privacy to neighbouring properties due to

their ground floor position and the distance that would be provided to the boundary with No 282 Lunsford Lane. The plans show that the rear rooflights would be obscure glazed, which would restrict views into neighbouring gardens. The front windows would overlook the street and would not cause a significant loss of privacy to neighbouring properties.

16. The proposed dwelling would not cause a significant loss of light or outlook to neighbouring properties due to its modest size; the pitched roof design; and its siting away from the site boundaries.

17. Vehicular movements associated with one dwelling would be small and the proposed parking area would be positioned away from neighbouring windows. As such, the proposed development would not cause significant noise and fumes. Furthermore, the proposed vehicular access would not be hazardous to walkers given that the number of vehicular movements associated with one dwelling would be small and that turning space would be provided to allow vehicles to enter and exit the site in forward gear.

18. The proposed development would provide 2 on-site parking spaces, which is sufficient for a 2-bedroom dwelling. It is therefore unlikely that cars would park on the open grassed area to the front.

19. The appeal scheme includes no proposals to fell trees and therefore there would be no loss of nesting bird habitats.

Conditions

20. The Council has suggested 4 conditions which I have considered against the Framework and the advice in Planning Practice Guidance, amending where necessary in the interests of precision. I am satisfied that all of my conditions are necessary, relevant and reasonable to make the approved development acceptable.

21. In addition to the standard time limit condition and the conditions suggested by the Council, I have imposed a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. I have also added a condition to require the north-western facing rear rooflights of the proposed dwelling to be permanently fitted with obscure glass and for no part of those windows less than 1.7 metres above the floor of the room in which it is installed to be capable of being opened. This is in order to protect the privacy of the occupiers of No 282 Lunsford Lane.

22. A condition to require the external surfaces of the proposed dwelling to be finished in the materials specified on the approved plans is necessary in the interests of the character and appearance of the area.

23. A condition to require the new vehicular access, parking and manoeuvring area to be laid out in accordance with the approved plans and the for the parking and manoeuvring area to be constructed in permeable materials is necessary in order to ensure that appropriate parking provision is provided and to reduce flood risk.

24. The Council has suggested a condition to remove permitted development rights under Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to

prevent overdevelopment of the plot and loss of the small remaining garden area.

25. Paragraph 53 of the National Planning Policy Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. In this case, I have been provided with no clear justification for the blanket removal of permitted development rights under Classes A and E.

26. However, the addition of upper floor windows/dormer windows to the north-western facing rear elevation of the proposed dwelling has potential to increase overlooking into the gardens of neighbouring properties. Therefore, there is clear justification to remove permitted development rights for the installation of upper floor rear windows to enable the Council to consider the effect of any such development on the living conditions of the occupiers of neighbouring properties.

27. Furthermore, the addition of a front porch under Class D has potential to affect vehicular access to the proposed parking spaces. Therefore, there is justification to remove permitted development rights for the construction of a porch under Class D so this matter could be assessed by the Council.

Conclusion

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

C Osgathorp

INSPECTOR