



Appeal Decision

Site visit made on 9 October 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/G2245/W/19/3229625

Magrose, Kingsingfield Road, West Kingsdown TN15 6LJ

- 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 B Hampton, Macey Consultancy Ltd against the decision of Sevenoaks District Council.
 - The application Ref 19/00213/FUL, dated 25 January 2019, was refused by notice dated 25 March 2019.
 - The development proposed is demolition of railings, shed, retention walls and Magrose side extension. Erection of new single storey dwelling and dropped kerb to create new access.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of railings, shed, retention walls and Magrose side extension. Erection of new single storey dwelling and dropped kerb to create new access at Magrose, Kingsingfield Road, West Kingsdown TN15 6LJ in accordance with the terms of the application, Ref 19/00213/FUL, dated 25 January 2019, subject to the conditions in the Schedule to this decision.

Background and Main Issue

2. The Council refused the appeal application for two reasons. The first considered that the proposal, by reason of its height, form and proximity to Ash Cottage, would be obtrusive and overbearing and have an unacceptable impact on outlook and sunlight harmful to the living conditions of the occupiers of that property, and the second considered provision of an adequate visibility splay at the entrance to the appeal site to the northeast could not be maintained which would have an unacceptable impact on highway safety.
3. Following this decision, on 14 May 2019, two appeals¹ against earlier refusals of planning permission relating to the same site were dismissed. These were for larger dwellings, with accommodation at first floor. In each case the Inspector concluded that satisfactory access without harm to highway safety could be secured by the use of a planning condition. She also concluded that in respect of one of the appeals, which would have involved no first floor accommodation in proximity to the boundary with Ash Cottage, there was sufficient separation so as not to result in an unacceptable loss of sunlight and daylight.

¹ APP/G2245/W/18/3214374 and APP/G2245/W/18/32198083

4. The Inspector, however, concluded on this appeal that the proposal would result in unacceptable harm to the living conditions of the occupiers of Ash Cottage (and another dwelling to which harm is not here alleged) through loss of privacy and the creation of a visually overbearing effect.
5. In its appeal statement, the Council agreed that highway safety could be secured by planning condition and effectively withdrew that reason for refusal. I will therefore consider that matter no further. The Council continues to resist the proposal on the basis of its asserted overbearing effect on the outlook from Ash Cottage. There are no windows proposed in the southwest elevation of this proposal and no loss of privacy is here alleged.
6. In light of this, the main issue is the effect on the living conditions of the occupiers of Ash Cottage in terms of outlook.

Reasons

7. Ash Cottage is located to the southwest of the appeal site. It is bungalow with two windows, I am advised to habitable rooms, in the elevation facing the appeal site. On the site survey drawing², dated January 2019, the boundary is shown to be "1.6m C/B" which would seem to indicate a 1.6m high close boarded fence.
8. At the site visit I noted that the close boarded fence in this location was higher than this; the appellant indicates 2.0m. The appellant indicates that this was erected under permitted development rights pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). There is no allegation that this is not lawful. With this fence in place I was able to see the tops of the two windows and the effect that the fence had on the living conditions of the occupiers.
9. The proposal is for the erection of a bungalow with a flat section to the middle of the roof. It would be set approximately 2.4m from the boundary. I am satisfied that while it would be possible to see the top of the proposed roof through the windows in question, there would be no material difference to the effects when compared with the current fence in place. This proposal would therefore not create any additional harm.
10. The Council has referred to its Residential Extensions Supplementary Planning Document. However, the introduction of this document makes clear that it applies to extensions to properties not to new buildings. I therefore am not taking this document into account in my decision.
11. As there would be no greater effect on the living conditions of the occupiers of Ash Cottage than the current situation there would be no additional harm. Consequently, the proposal would comply with Policy EN2 of the Sevenoaks Allocations and Development Management Plan which requires that development safeguards the amenities of existing and future occupants of neighbouring properties. It would also comply with paragraph 127 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should ensure developments create a high standard of amenity for existing users.

² Drawing number KR-923-PD-B-01

Conditions

12. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. The numbers given in brackets (X) refer to the condition being imposed.
13. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant drawings as this provides certainty (2).
14. On consultation at the application stage the Ecological Advice Service of Kent County Council indicated that, although the site had been cleared of trees, there "are still areas of vegetation within the site which could be utilised by protected/notable species". In order to ensure protection for such species an ecological survey and mitigation strategy needs to be undertaken and secured before any other works take place. The approved mitigation then needs to be delivered. The appellant has given written agreement to this as a pre-commencement condition (3).
15. In order to ensure safe access details of the visibility splay at the entrance needs to be set out and thereafter delivered. The Council suggested that this should be prior to first occupation but I consider that this should be as a first operation to ensure highway safety during the construction period. Again, as a pre-commencement condition the appellant has agreed to this (4).
16. In order to ensure that the appearance of the building would respond to the materials of the area, details of the external materials for the building need to be agreed. These do not need to be a pre-commencement condition and only need to be approved prior to any above ground works commencing (5).
17. In order to mitigate and adapt to climate change safe charging of electric vehicles should be delivered as part of the development. The Council suggested condition indicates approval prior to first occupation and installation thereafter but gives no time by when the provision has to be made. As installation would be better facilitated as part of the construction, I have redrafted the condition to require details to be approved prior to any above ground works and the approved works installed prior to first occupation (6).
18. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

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: KR-923-PD-B-01, 02, 03.
- 3) No development shall take place until an ecological mitigation strategy, informed by an ecological scoping survey, together with a scheme of implementation, has been submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the visibility splay to the northeast of the proposed access with Kingsingfield Road has been submitted to and approved in writing. The approved scheme shall be implemented prior to any works commencing on site and shall thereafter be retained.
- 5) No above ground works shall take place until details 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 works shall be carried out using the approved materials.
- 6) No above ground works shall take place until details for the provision of facilities for the safe charging of electric vehicles have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the approved facilities have been installed and the facilities shall thereafter be retained, maintained and be available for use at all times.

END OF SCHEDULE