The Planning Inspectorate

Appeal Decision

Site visit made on 16 October 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2019

Appeal Ref: APP/T2215/W/19/3235521
1b Faesten Way, Bexley DA5 2JB

- 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 Martin Hall against the decision of Dartford Borough Council.
- The application Ref DA/18/00927/FUL, registered 25 January 2019, was refused by notice dated 23 April 2019.
- The development proposed is demolition of existing detached double garage and construction of proposed three bedroom detached dwelling.

Decision

1. The appeal is allowed, and planning permission is granted for demolition of an existing detached double garage and construction of a proposed three bedroom detached dwelling at 1b Faesten Way, Bexley DA5 2JB in accordance with the terms of the application, Ref DA/18/00927/FUL, registered 25 January 2019, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. I have taken the description of development from the Council's decision notice as that on the planning application form refers also to a new detached garage which does not appear on the appeal drawings.

Application for costs

3. An application for costs was made by Mr Martin Hall against Dartford Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are (a) the effect of the proposal on the character and appearance of the area and (b) whether the proposal would be an acceptable form of windfall development.

Reasons

Character and appearance

5. The appeal relates to development within the curtilage of 1b Faesten Way, a detached chalet style two storey house with first floor dormers to both flanks. The house is sited side on and close to Faesten Way with its frontage facing north towards a vehicular access and parking area. The access also serves 1a Faesten Way another detached dwelling to the east of the site which has been enlarged by a side extension close to the boundary with the appeal site. A

garden to the side of 1b Faesten Way separates the two dwellings. The surrounding area is residential in character and comprises a mixture of detached, semi-detached and terraced dwellings in varying plot sizes.

6. The proposed dwelling would be located on the side garden. A detached double garage and some sheds located within the front garden to the present dwelling would be demolished to enable creation of a larger hard standing area to serve both existing and proposed dwellings. A detached summerhouse in the back garden would also be removed. A ground floor lounge window and two first floor bedroom windows all in the eastern flank wall of the existing dwelling would be blocked in as the proximity of the proposed dwelling would greatly restrict outlook from these windows. The lounge and bedrooms would still benefit from natural lighting though either front or rear facing windows.

7. The front and rear walls to the proposed house would align approximately with those at 1a and 1b Faesten Way. The proposal would therefore continue the pattern of development set by these dwellings set at right-angles to the road. The plans indicate that the new house would have a width of 6.7m. This would be slightly narrower than that of the adjacent dwellings but would nonetheless enable provision of a good sized 3 bedroom house with a satisfactory layout. The house would largely fill the present gap between nos. 1a and 1b but the separation between the dwellings would be similar to that commonplace in the surrounding area.

8. The curtilage to the existing dwelling is unusual in the locality in that it benefits from a large side garden. The rear garden retained for no.1b would be adequate for the house, similar in size and shape to that at no.1a and comparable to other back gardens in the vicinity. Whilst the depths to the front and rear gardens to the proposed dwelling would be like those at the adjacent dwellings, the rear garden would be slightly narrower, but still of adequate size and it would benefit from a southerly aspect. The width, depth and overall size of the garden would be satisfactory and comparable to other gardens nearby. The loss of the side garden would not unduly impact on openness in the area.

9. The alterations to the host dwelling would ensure a satisfactory relationship between it and the new dwelling and the retention of suitable living conditions at the host dwelling. Principal windows at 1a Faesten Way are located at the front and rear of the dwelling. The siting of the proposed house close to the side wall at no. 1a would not unduly impact on living conditions here.

10. The resultant development would not therefore be cramped or overbearing for the occupiers of adjacent dwellings. The proposed house would have a pleasing appearance but as it would be set back from the road and partially screened by trees at the site and in adjacent gardens, it would not be a conspicuous feature in the street scene. The proposal would thereby accord with Policies DP2 and DP8 of the Dartford Development Policies Plan (2017) (DDPP) which promote good design, reinforcing and enhancing positive aspects of the locality, and the provision of adequate floor areas and private amenity space.

Windfall development

11. Policy CS10 of the Dartford Core Strategy (2011) (DCS) directs development towards sustainable locations and sets criteria for assessing unplanned windfall development. The appeal proposal would be a windfall development as the site was not identified in the Council's Strategic Housing Land Availability

Assessment (2010). Policy DP6 of the DDPP specifies criteria to judge windfall development for five or more dwellings, but sites of fewer than five dwellings need to be assessed in relation to Policy CS10(4) and a Supplementary Planning Document for managing windfall developments. The Council has not objected to the proposal in relation to criterion (a) to Policy CS10(4), sustainability of the site for housing development, or in relation to criteria (c) and (d), the capacity of infrastructure to serve the development. The proposal therefore needs to be assessed in relation to criterion (b), whether the benefits of development outweigh disbenefits.

12. The definition of "*previously developed land"* in the National Planning Policy Framework (the Framework) excludes private residential gardens in built-up areas. The appeal site is within a built-up area and the proposed dwelling would be wholly on garden land. The proposal would not therefore be a brownfield development on previously developed land but development on greenfield garden land.

13. Policy DP7 of the DDPP seeks to resist inappropriate development on residential garden land and requires proposals to not result in (a) a loss of choice and diversity in the stock of housing and gardens or (b) erosion of local character. The large size of the side garden to 1b Faesten Way is unusual in the locality and does not reflect the historically dominant form of development in the area. My finding on the first main issue is that there would not be an erosion of local character. Whilst there would appear to be few dwellings with a comparable sized garden in the immediate vicinity, there are larger dwellings with larger gardens in the wider area. I have not been presented with any evidence to conclude that the proposal would result in a significant loss of choice or diversity in the stock of housing and gardens. There would not therefore be any substantive conflict with Policy DP7.

14. The building of the house on greenfield garden land would nonetheless be a disbenefit in relation to Policy CS10(4b), but this needs to be weighed against the benefits of the scheme. The Council can currently demonstrate a five year housing land supply and is meeting its housing delivery targets. But the proposal would still result in the benefit of a satisfactory additional dwelling in keeping with the character of the area that would make a modest addition to meeting housing need locally.

15. Paragraphs 117 and 118 of the Framework encourage making as much use as possible of previously developed or brownfield land, but do not exclude the use of greenfield sites. Paragraph 117 of the Framework states that planning decisions should promote "*an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions*". The proposal would make an effective use of an unusually large site, would safeguard the local environment and provide safe and healthy living conditions for the occupiers of the host and proposed dwellings.

16. The disbenefit of building on greenfield garden land in this instance would be outweighed by the benefit of an additional housing unit that would be of satisfactory size and layout and which would not impact adversely on the character and appearance of the area. The proposal would be a satisfactory form of windfall development and would not conflict with the provisions of Polices CS10 or DP6.

Other matters

17. Local residents have objected to the proposal on other grounds. The separation to houses in Tile Kiln Road to the north of the site would be like that to existing dwellings. I am satisfied that the proposal would not result in undue loss of privacy, loss of light or disturbance from additional vehicles at the site. The access and parking arrangements would be satisfactory. There are trees at the site subject to a Tree Preservation Order; I concur with the Council that the use of appropriately worded planning conditions should ensure the retention and protection of these trees during the course of development.

Conclusion and conditions

18. For the reasons given and having regard to all other matters raised, the appeal is allowed subject to appropriate planning conditions. I have had regard to the conditions suggested by the Council in the event of the appeal being allowed but have amended these in the light of Planning Practice Guidance.

19. In addition to a condition relating to the statutory time period for commencement of work, a condition is necessary to list the plan numbers in the interests of certainty and to enable submission of minor material amendment applications should this be necessary. It is necessary to ensure that the alterations proposed to the existing dwelling are undertaken to provide satisfactory living conditions for the occupiers of both buildings; however, these works could reasonably be completed prior to occupation of the new dwelling rather than before commencement of any building works on it.

20. Due to the presence of protected trees and changes of level at the site, pre-commencement conditions are necessary to establish the finished floor level of the house and to ensure that trees to be retained are protected throughout the course of building works. Conditions are necessary to approve details of the external materials for the buildings, landscape measures for the site and boundary enclosures to ensure a satisfactory appearance to the development. As the site is close to other dwellings, a condition is necessary to control hours of working to safeguard the amenities of nearby occupiers. The proposed parking, turning and access arrangements need to be provided and retained to ensure the efficient operation of the site. Finally, a condition is necessary to control the glazing and opening of the first floor landing window to safeguard the privacy of occupiers of the existing dwelling.

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: RDC/1B/003, RDC/1B/006 rev A, RDC/1B/002 rev B, RDC/1B/001 rev A.

3) The proposed house shall not be occupied until the internal and external alterations to 1b Faesten Way as shown on drawing RDC/1B006 rev. A have been completed.

4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed house 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 site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

6) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the house 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 details.

7) No development shall commence above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8) No development shall commence above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of boundary treatments and enclosures. The boundary treatment shall be implemented in accordance with the approved details prior to occupation of the development shall be maintained thereafter.

9) Demolition or construction works shall take place only between the hours of 0800 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

10) The car parking spaces, turning areas and means of access shown on the approved plans for both the existing and proposed dwellings shall be provided prior to occupation of the proposed dwelling hereby approved and shall be kept available for such uses at all times thereafter.

11) The dwelling hereby permitted shall not be occupied until the first floor landing window has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above first floor level shall be capable of being opened.