
Appeal Decision

Site visit made on 20 October 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/G2245/W/20/3254746

The Gatehouse, Farley Nursery, Westerham TN16 1RR

- 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 Ms S Jeary against the decision of Sevenoaks District Council.
 - The application Ref 19/03388/FUL, dated 4 December 2019, was refused by notice dated 30 March 2020.
 - The development proposed is change of use from existing storage to a single residential dwelling.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the proposal on highway and pedestrian safety.
 - The effect of the proposal on the living conditions of neighbouring and future residential occupiers.
 - Other material considerations in the planning balance.

Reasons

Highway and Pedestrian Safety

3. Policy EN1 of the Sevenoaks Allocations and Development Management Plan sets out design principles including a satisfactory means of access for vehicles and pedestrians, and Policy T2 on vehicle parking refers to County standards. The Kent Design Guide Review 'Residential Parking' states that the Guidance Table can be applied to minor (often infill) developments, but regard needs to be had for the severity of concerns about safety and/or amenity before recommendations of refusal are made in respect of numerically 'inadequate' parking. Unless demonstrable harm is likely to be caused, it may be inappropriate to make such recommendations.
4. Observations at the time of the site inspection were that there was full use of unrestricted parking on both side of New Street, with near-full use of the available spaces on Farley Nursery, taking account of access drives. It appears reasonable that an off-street parking space should be provided in any new dwelling in this location.

5. The building has a garage door and a paved forecourt with a dropped kerb. The Council draw attention to the wording of Condition 3) attached to the original grant of permission requiring a 5.5m apron depth, and that this was not discharged. Whether it is reasonable that a vehicle could stop momentarily to allow the garage door to be opened before entering, even if overhanging the footway for that brief time is immaterial to consideration of the appeal proposal since the garage door would be removed.
6. The appellant suggests that a car could be parked across the width of the forecourt and a small saloon car was in place when visited. This did appear a tight fit and the manoeuvre would likely involve more than a speedy parallel park even if parked closer to the back-edge of the footway. Parking a larger vehicle would be more difficult and the Council's suggested figure of 6m does not appear to be met. Whilst the use of the approved garage would still require at least one reversing movement, either in or out, since there is no turning provision, the likely multiple movements to achieve a parallel park would risk harm to highway safety so near to the corner with New Street, and could at the least inconvenience road users and pedestrians, with a real risk of harm to the latter.
7. The failure to accord with Condition 3) has led to a situation where parking cannot be provided in line with Policies EN1 and T2, and there would be an unwarranted risk of harm.

Living Conditions

8. Allocations and Development Management Plan Policy EN2 seeks adequate residential amenity for existing and future occupiers, while Framework paragraph 127f requires a high standard of amenity.
9. Looking first at the standard of accommodation, the Council accept that there are no adopted space standards. Although small, the dwelling would provide floor space for the required activities. No cross section has been provided and the position of the newly proposed windows in the gable ends indicates that the area of full headroom could be limited to about the width of those windows allowing for structural depths. In terms of outlook and light, the upper floor would be acceptable, and whether or not a partition and door is required between the bedroom and the stairs, the rear window would provide cross ventilation.
10. The situation downstairs is more enclosed, with only a glazed door to the rear and the stair occupying much of the width, and to the front the possibility of car parking further limits the outlook, already adversely affected by the depth of the bathroom. The side window to the living room gives on to a narrow alleyway, presently covered, but even when opened-up, would be too close to the boundary treatment with no guarantee over it being sufficiently open. As a result, the accommodation would not provide adequate outlook and would feel enclosed, and would not represent the standard of design sought in either local or national policy.
11. With regard to neighbouring occupiers, the risk identified by the Council is that of overlooking from the upper window to the rear. Were that window to be fully transparent, there would be a risk, due to the proximity of the rear gardens to properties on the west side of New Street. The fact that the window serves a landing is not sufficient to avoid the risk, since it is near the top step.

However, as suggested, a condition could provide for some obscured glazing whilst still providing the cross ventilation and daylight that has been taken into account previously.

12. To conclude on this issue, whilst the living conditions of neighbouring occupiers could be safeguarded by condition, the standard of accommodation provided for future occupiers is deficient in outlook contrary to the aims of Policy EN2 and the Framework.

Planning Balance

13. The Council are unable to demonstrate a 5-year supply of housing land as required by the Framework and hence the 'tilted balance' in paragraph 11 applies. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
14. Whilst a location within an Area of Outstanding Natural Beauty could trigger the first limb of this quotation, no harm has been identified to that designated area. With regard to the second limb however, harm has been found to the living conditions of future occupiers which cannot be overcome by conditions, and there is an unresolved risk of harm to highway safety and the use of the footway by pedestrians.
15. There are benefits in the provision of a single dwelling in this sustainable location close to shops and transport, and this would assist the 5-year supply as a windfall site. However, in the balance the conclusion is that the adverse impacts of permitting the scheme would significantly outweigh the benefits, when assessed against the policies in this Framework taken as a whole, and that has been demonstrated in the reasoning to this Decision.

Conclusions

16. Whilst the living conditions on neighbouring occupiers can be protected, the parking arrangements are unsatisfactory, and the standard of accommodation would be lacking in outlook. The benefits would be outweighed by these adverse effects and the proposal should not be considered as sustainable development. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR