



Appeal Decision

Site visit made on 3 November 2020

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 16 November 2020

Appeal Ref: APP/U2235/D/20/3249648

29 The Landway, Bearsted ME14 4BE

- 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 & Mrs Gashi against the decision of Maidstone Borough Council.
 - The application Ref 19/506376/FULL, dated 3 January 2020, was refused by notice dated 28 February 2020.
 - The development proposed is a retrospective application for additional obscure glazing to previously approved application 19/504830/FULL.
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Decision

1. The appeal is allowed and planning permission is granted for a retrospective application for additional obscure glazing to previously approved application 19/504830/FULL at 29 The Landway, Bearsted ME14 4BE in accordance with the terms of the application, Ref 19/506376/FULL, dated 3 January 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the building.

Reasons

3. Number 29 The Landway comprises a much altered large detached dwelling located on the western side of the road and on its corner with The Morlings. Permission for the extensions and alterations was granted in 2018¹ and works have now been completed. Subsequently, an application was submitted to regularise changes to windows from the previously approved plans but this was refused in 2019².
4. The current proposal is a variation of the 2019 application and seeks approval to the windows concerned but with additional design changes. In that respect there are two windows in the rear elevation and one in the south west elevation which have been constructed to full height windows. This is contrary to the approved plans which showed windows in the same position and to the same width, but to a depth of 1.1 metres in height rather than the currently constructed 1.8 metres in depth. The current proposal is to obscure glaze the lower parts of the two windows in the rear elevation and obscure glaze the whole of the window in the south west elevation. In addition, it is proposed to

¹ Application reference 18/500831/FULL

² Application reference 19/504830/FULL

- install weatherboarded slats to the lower parts of all three windows. I observed at my site visit that the obscure glazing had been installed, but not the wooden slats. I also noted that those parts of the windows which have been obscured glazed, are fixed shut.
5. Although officers supported the revised changes on balance in their report to the Council's Planning Committee, members decided to refuse permission. In that respect, I note that the reason for refusal relates solely to the design impact of the changes upon the building itself.
 6. The Council advises that the original property on the site was a bungalow, the character of which has been fundamentally altered by the approved design. The appearance of the building is now that of a contemporary designed detached two storey house with a similarly contemporary mix of materials, including grey weatherboarding to the upper floors and white rendering to the lower floor. The approved design had a variety of fenestration on the rear elevation, including a large double roof light, a projecting window at first floor, three regular sized windows (including the two the subject of this appeal) and three sets of large sliding doors at ground floor. The approved fenestration on the south west elevation was more restrained with the relevant appeal window only, above a further set of double sliding doors. A variety of different sized fenestration was also approved on the front elevation
 7. In the context of the above, the windows as constructed are more visually apparent than they would otherwise have been. However, the introduction of the grey and angled weatherboarded slats would visually soften that effect in that they would help to integrate the lower parts of the windows with the adjoining weatherboarding at first floor level. In that respect, they would be viewed as an additional area of contemporary architectural detailing. That would be in character with the design of the rest of the building as a whole and I find there would be no harm arising, subject to satisfactory detailing which could be controlled through a condition. I noted that there are a variety of designs of buildings in the locality including the adjoining property to the north, and the recently constructed properties forming The Morlings, to the south and to the rear. All these also include different styles and sizes of fenestration and therefore the proposed changes to the windows would not look out of place.
 8. I note that representations received also referred to loss of privacy from the affected windows and at the time of the 2019 refusal, clear glass had been inserted. However, as referred to above, since that time the obscure glazing has been put in and those parts of the windows are not capable of being opened. Subject to ensuring that continues to be the case therefore, which can be controlled through condition, I am satisfied that a reasonable level of privacy for the occupiers of adjoining properties in The Morlings, can be provided. In that context I also note that the upper parts of the affected windows are as originally approved and there would therefore be no change in that relationship.

Conclusion

9. The proposed design of windows would be slightly unusual, but I find that they would be in keeping with the overall character of the property. I also find that adequate levels of privacy could be maintained through use of appropriate obscure glazing. The development would therefore be in compliance with Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017, in that the

design would be of a high quality and there would be no harm to residential amenity.

10. Conditions relating to the development being built in accordance with the approved plans, restrictions on existing window openings, control over new openings and details of the proposed weatherboarded slats, are all necessary in the interests of certainty, to protect residential amenity and for visual amenity. Whilst I consider it necessary to require details of the slats to be submitted speedily, given that the windows are already installed, I have allowed a slightly longer time for implementation than the Council suggests, having regard to the current uncertainties of general working arrangements in the light of the current pandemic. A condition requiring the previously approved annex accommodation to be ancillary only, is necessary in that it would be unsatisfactory as an independent dwelling.
11. Accordingly, the appeal is allowed and planning permission granted.

Kim Bennett

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P158-PL22 Rev A
- 2) Within 1 month of the date of this decision, details in the form of large scale drawings (at a scale of no less than 1:20) of the proposed slatted weatherboarding shown on drawing No P158-PL22 Rev A, shall be submitted to and approved in writing by the local planning authority. Such details shall include the proposed angle, colour, material and means of fixing to the existing elevation. Such details as may be approved shall be fitted within 3 months of their approval and shall thereafter be maintained in that form at all times.
- 3) No new windows, rooflights, voids, other openings or alterations to approved fenestration shall be placed, formed or inserted above ground floor level in the North West rear elevation or South West side elevation of the development hereby permitted.
- 4) The following windows/parts of windows shall be obscure glazed and fixed shut, unless the part(s) of windows which open are at least 1.7 metres above the finished floor level of the room in which it is installed:
 - (i) Both rooflights to the first floor serving bedroom 3 in the north east side elevation.
 - (ii) The part of the bay window to the first floor serving bedroom 3 in the north east side elevation.
 - (iii) The part of the bay window to the first floor serving bedroom 3 in the north west rear elevation.
 - (iv) The lower sections of the rear facing windows in the north west elevation serving bedrooms 1 and 2 as shown on drawing no P158-PL22 Rev A.

(v)The whole of the first floor window serving bedroom 1 in the south west side elevation.

All the windows referred to shall thereafter be permanently maintained as above.

- 5) The annex accommodation hereby permitted shall only be used for purposes ancillary to the use of the main dwelling known as 29 The Landway, and shall at no time be used as a separate or independent dwelling.