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# Appeal Decision

Site visit made on 1 December 2020

**by S J Papworth DipArch(Glos) RIBA**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 December 2020**

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**Appeal Ref: APP/E2205/W/20/3256555**

**Oakapple Cottage, Canterbury Road, Challock, Ashford, Kent TN25 4DF**

- 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 Mrs Angela Pierce against the decision of Ashford Borough Council.
  - The application Ref 19/1675/AS, dated 28 November 2019, was refused by notice dated 23 January 2020.
  - The development proposed is new dwelling along with single garage.
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## Decision

1. I allow the appeal and grant planning permission for new dwelling along with single garage at Oakapple Cottage, Canterbury Road, Challock, Ashford, Kent TN25 4DF in accordance with the terms of the application, Ref 19/1675/AS, dated 28 November 2019, subject to conditions 1) to 11) on the attached schedule.

## Main Issues

2. These are;
  - The effect of the proposal on the character and appearance of the area.
  - The effect of the proposal on the living conditions of existing occupiers and whether the proposal would provide an acceptable level of amenity for prospective occupiers.

## Reasons

### *Character and Appearance*

3. Policy SP1 of the Local Plan states strategic objectives including creating high quality design, promoting a positive sense of place through the design of the built form and relationship of buildings with each other, while Policy SP6 promotes high quality design. Residential windfall development will be acceptable within the built confines of Challock subject to criteria on design and layout as set out in Policy HOU3a and Policy HOU10 details requirements for development on residential gardens.
4. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

5. The site of the proposed new dwelling is garden land associated with Oakapple Cottage and is shown on 'Map 2' to be within the built confines of Challock for development control purposes. Furthermore, from observation at the site inspection, the site is within a built-up area, particularly due to the nature of the development on High Snoad Wood, a modern estate entered alongside the eastern boundary of this corner plot. The Officer's Report confirms that there is no 'in principle' objection to the proposal to develop an additional dwelling in this location.
6. The proposal would be a chalet bungalow with rooms in the roof and having an eaves level approximately that of the present dwelling. The ridge would line part-way up the front pitch of the adjoining number 1 High Snoad Wood, a two-storey modern house with full gable ends and a projecting 2 storey porch with accommodation over and a front facing full gable. The front facing gable-topped dormers on the appeal proposal would echo this feature.
7. Whilst close to the mutual boundary with number 1, there would be a reasonable gap and there is an example of a chalet style nearby at number 4 High Snoad Wood with a limited gap to the garage at number 3. The proposed building would mediate between the differing heights and architectural treatment of number 1 and Oakapple Cottage without harming the character and appearance of the area or the presentation of either adjoining dwelling.
8. With regard to the proposed garage, the Officer's Report refers to there having been permission some time ago which was not implemented for a garage described as being located to the side of the dwelling. This would have been prior to the development of High Snoad Wood and reference to 'the side' implies a site similar to that now proposed for a single garage.
9. Whilst what is proposed would be wider than a single garage need be, it would replace a garage and other outbuildings on what would become the new site, and would be similar to other detached garages located in various positions within the more recent development, including between the respective house and the road. The presence of that development and the space for the entry road allows the appeal proposal to be assimilated into the street-scene without harm. Although often set back, the proximity of those garages in the adjoining development to their houses is similar to that now proposed.

The proposal of new dwelling and garage together would satisfy the requirements in Policy SP1 and criteria a) on location, d) on design and g) on a mix of housing sizes, as well as Policy SP6 and the Framework on design. With regard to the highly relevant Policy HOU3a, the proposal would accord with criterion a) on layout, design and appearance, and would not have any of the adverse effects sought to be avoided in the other criteria. As a result, the requirements of Policy HOU10 would be met.

### *Living Conditions*

10. One of the criteria in Policy HOU3a is that development within the built-up confines of Challock is not to create a significant adverse impact on the amenity of existing residents. Private external open space is the subject of Policy HOU15. The Council have referred to the Supplementary Planning Document '*Residential Space and Layout*' and the requirements for private open space that is not overlooked from the road. Paragraph 127f) of the Framework seeks a high standard of amenity for existing and future users.

11. Reason for Refusal 3 alleged a risk of overlooking to the gardens of adjacent properties and the Officer's Report refers specifically to 'Golden Dragon' the dwelling to the west of the appeal site. That risk would be from elevated views out of the rear-facing upper floor dormer windows, one to a family bathroom and the other to Bedroom 2, that latter also having a window to the front. Amended drawings 2019/53/03A and 04A show obscure glazing to those windows and there would be no detriment to any party's interests in accepting that revision at appeal. Having mind to the nature of the rooms and particularly the alternative outlook for the bedroom, that Reason for Refusal can be overcome and secured by condition.
12. The fourth Reason for Refusal concerned the amenity space for each property. The new dwelling would have a part of the rear garden at less than the 10m length sought in the Supplementary Planning Document, described as an *essential* minimum standard in the Table to section 3, while the commentary refers to a 'rule-of-thumb' of 10m by the width of the dwelling providing a helpful starting point, with tapering plots requiring a greater length. Policy HOU15 refers also to the 10m dimension by the dwelling width. The appeal provision would be slightly wider than the dwelling footprint and would provide useful private space for the functions mentioned in the commentary.
13. It is the rearward single storey projection of the living room that impinges on the depth of garden but that provides a useful backdrop to the patio area outside the dining room, would assist in keeping that area private from number 1 High Snoad Wood, and would provide an attractive link between indoor and outdoor space. The proposal would provide an adequate useable outdoor amenity space in line with the aims of Policy and guidance.
14. In this connection, there are existing structures to the rear of the appeal site that do not coincide with the footprint of the new dwelling and if left in place would seriously and unacceptably reduce the available area. The Council has suggested the removal of Class E permitted development rights and it is reasonable to secure the removal of these structures prior to occupation.
15. The remaining space available to Oakapple Cottage would still be sizeable, but somewhat fragmented, which is the case at present. The loss of the appeal site with its trellis and pergolas would result in the useable space being more to the east of the dwelling, behind the new garage, where privacy from the main road would be provided. The appellant refers to the use of the south facing part in front of the dwelling, but this would be affected by the main road and is shown to be more occupied by the turning and parking of vehicles. Nevertheless, the amount of space available allows that choice, and together with the existing narrow area adjoining 'Golden Dragon' there would be adequate amenity space in terms of quantity and quality such that the Local and national policy requirements are met.

## Conditions

16. The Council suggested 10 conditions and the appellant has agreed to them although in the event none are 'pre-commencement'. It is necessary to seek details and samples of materials in order to ensure the successful integration of the building in the street-scene, and landscaping works together with the retention of hedging is required for similar reasons. The requirement for the landscaping scheme to be carried out fully within 12 months of the *completion* of the development will be changed to *occupation* of the new dwelling as with 2

parts to the permission, 'completion' is imprecise and may not provide for the required landscaping to be carried out.

17. Surface and foul drainage should be provided to the required standard and with regard to the condition on Sustainable Urban Drainage Systems, an implementation clause will be added. The removal of permitted development rights for Classes A to E is reasonable and necessary in this instance due to the limited space left undeveloped, and the removal of the existing structures has been referred to. The Council had suggested the obscure glazing to the windows referred to in the second main issue. A condition naming the 'as proposed' drawings is required for the avoidance of doubt and they should include 03A and 04A.

### **Conclusions**

18. The proposal would make better use of land in a sustainable location within the built confines of Challock and with conditions controlling the quality of the development, would not cause harm to the character and appearance of the area or the living conditions of either existing or prospective occupiers. The proposal accords with Development Plan and national policy on residential development as well as the aims of the Supplementary Planning Document. For the reasons given above it is concluded that the appeal should be allowed.

*S J Papworth*

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: 2019/53/02, 03A, 04A, 05 and 06.
- 3) Written details including source/manufacturer and samples of the materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before the development proceeds above ground level and the development shall be carried out using only the approved external materials.
- 4) The drainage works at the site shall be designed in accordance with the principles of Sustainable Urban Drainage Systems. The drainage works shall be carried out and be operational prior to the occupation of the dwelling and retained as such.
- 5) The dwelling shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

- 6) The dwelling shall not be occupied until the existing structures on the site have been demolished, all materials removed from site and the land made-good for use as private amenity space.
- 7) The bathroom and bedroom window openings on the rear first-floor elevation shall be fitted with obscured glass (privacy level/grade 3 or higher) and shall be non-opening up to a minimum height of 1.7 m above internal floor level. This specification shall be complied with before the development is occupied and thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.
- 8) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior written consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing with the Local Planning Authority.
- 9) A landscaping scheme for the site (which may include entirely new planting, retention of existing planting or a combination of both) shall be submitted to and approved in writing by the Local Planning Authority before the dwelling is occupied. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the first occupation of the development. Any trees or other plants which within a period of five 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 a similar size and species unless the Local Planning Authority give prior written consent to any variation.
- 10) The area shown on drawing number 2019/53/02 as vehicle parking space, garages and turning shall be provided and retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these parking spaces.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Classes A to E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.