
Appeal Decision

Site Visit made on 1 September 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2021

Appeal Ref: APP/M2270/D/20/3263383

18 Sandrock Villas, Cranbrook Road, Hawkhurst, Kent TN18 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 Robert Sims against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/01387/FULL, dated 1 July 2020, was refused by notice dated 26 August 2020.
 - The development proposed is "Replacement of existing garden shed with 2.5m high black corrugated steel cladding garden shed/summer house with flat angled roof and front facing bi-fold doors (retrospective)".
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Decision

1. The appeal is allowed and planning permission is granted for "Replacement of existing garden shed with 2.5m high black corrugated steel cladding garden shed/summer house with flat angled roof and front facing bi-fold doors (retrospective)" at 18 Sandrock Villas, Cranbrook Road, Hawkhurst, Kent TN18 4BE in accordance with the terms of the application, Ref 20/01387/FULL, dated 1 July 2020, and the plans submitted with it, subject to the following conditions:

- 1) Unless within 3 months of the date of this decision a scheme for the soft landscaping along the northern boundary of the building hereby permitted, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the outbuilding hereby permitted shall be demolished.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the outbuilding hereby permitted shall be demolished.

Upon implementation of the approved scheme for the soft landscaping specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The building hereby permitted shall not be used at any time other than for purposes incidental to the enjoyment of the dwelling known as 18 Sandrock Villas, Cranbrook Road, Hawkhurst, Kent TN18 4BE.

Preliminary Matters

2. I have taken the description of the proposed development from the Council's decision notice, as this is more concise than the description provided in the application form. The appellant has referred to this amended description within their appeal form, confirming it is the development for which planning permission is sought retrospectively.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of 3 Sandrock Bungalows ('No.3'), with particular regard to outlook and light.

Reasons

4. The shed/summer house is a single storey outbuilding erected at the rear of the appeal site along its northern boundary, which is shared with No.3. Land levels vary throughout the surrounding area, generally sloping down from west to east, but also from south to north at the rear of the appeal site. The plot of No.3 is therefore somewhat lower than the rear garden of the appeal site. The northern boundary between the appeal site and No.3 comprises a retaining wall with a low fence on top.
5. I noted that clear views into the garden area of No.3 are available from the appeal site due to the variance in land levels and the low-level of the boundary fence between the two plots. Any outbuilding or taller fence along this boundary would therefore have an impact on outlook from No.3. Although the height of the outbuilding exceeds that of most residential boundary fences, outlook from No.3 is not unacceptably affected considering the distance of the outbuilding from windows serving No.3, the nature of surrounding land levels, and the remaining open views from the garden to the east and west. The outlook enjoyed by occupants of No.3 has been reduced, but not significantly, and no more than would reasonably be expected in a residential area of differing land levels.
6. The appellant has carried out an assessment of the impact of the outbuilding on daylight and sunlight received by No.3¹. The assessment demonstrates there is no unacceptable impact on light received by the south facing lounge window of No.3, but accepts there is some loss of sunlight to the garden area of No.3, particularly in winter months. The level of overshadowing caused to the garden area of No.3 by the outbuilding is moderate, but not unacceptable.
7. The outbuilding does not therefore have any unacceptable effect on the living conditions of the occupants of No.3 with regard to outlook and light. It accords with Policy EN1 of the Tunbridge Wells Borough Local Plan (2006) which seeks to prohibit development which causes significant harm to the residential amenities of neighbouring occupiers.
8. The Council has also referred to Policy EN5 of the Tunbridge Wells Borough Local Plan (2006) and Policies 1, 4 and 5 of the Tunbridge Wells Core Strategy (2010); however, I have not been provided with any explanation as to how the Council considers these policies relate to the Main Issue. Policy EN5 relates to development within or affecting conservation areas, but the appeal site is not

¹ The appellant's Appendix 3: Letter dated 11 November 2020 by Right of Light Consulting

located within a conservation area and the Council's officer report does not suggest the proposal would affect any conservation areas. Policies 1, 4 and 5 all relate to the strategic delivery of development throughout the Borough. I do not therefore find any conflict with these policies.

Other Matters

9. I have seen objections made by various interested parties concerning other matters, which have been addressed by the Council within their Officer Report. I have not been presented with any new information in those regards to lead me to any different conclusions on those matters.
10. I note an interested party has annotated the submitted plans to show what they consider to be accurate measurements of some aspects of the outbuilding erected. The differences between the disputed measurements are minor and suggest the outbuilding has been erected larger than shown on the submitted plans. Having inspected the outbuilding as erected I am satisfied that the submitted plans broadly show the outbuilding erected. The dispute between these measurements does not therefore affect my reasoning on the main issue, which relates to the plans submitted.

Conditions

11. The appellant has suggested a condition requiring the approval of further details of a soft landscaping scheme along the northern boundary of the appeal site could improve the appearance of the outbuilding. Condition 1 is imposed to ensure that soft landscaping details are submitted, approved and implemented so as to soften the appearance of the outbuilding when viewed from No.3, to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the soft landscaping details before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
12. I also consider a condition prohibiting the use of the outbuilding for any purposes other than those incidental to the enjoyment of the dwelling at the appeal site is reasonable and necessary to protect the living conditions of neighbouring residents.

Conclusion

13. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

L Douglas

INSPECTOR