



Appeal Decision

Site visit made on 17 November 2021

by Mr Kim Bennett BSc DipTP MRTPI

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

Decision date: 29 November 2021.

Appeal Ref: APP/A2280/D/21/3280227

9 The Rise, Hempstead, Gillingham ME7 3SS

- 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 D Lanckmans against the decision of Medway Council.
 - The application Ref MC/21/1314, dated 6 May 2021, was refused by notice dated 1 July 2021.
 - The development proposed is the erection of a double garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a double garage at 9 The Rise, Hempstead, Gillingham ME7 3SS in accordance with the terms of the application, Ref MC/21/1314, dated 6 May 2021, subject to the conditions 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 area.

Reasons

3. The appeal property comprises a large detached house located on the north west side of The Rise and at a higher level than the road itself. It has an integral double garage which is not used for parking purposes but there is space for the parking of two vehicles in front, and there is an additional hardstanding area which is also used for parking on the south west side of the front garden area. Adjoining that on the boundary with the adjacent property No 7 The Rise, is a large oak tree which is protected by a Tree Preservation Order (TPO)ⁱ. The surrounding area is wholly residential in character with detached houses of differing designs and materials.
4. The proposal is to erect a detached double garage over the front hardstanding area which would be at right angles to the road with access from the existing driveway. It would have a pitched roof and the submitted plans show hedge planting on the roadside elevation together with tree planting in front.
5. A similar proposal was refused by the Council in April 2021ⁱⁱ, with the difference being that the current proposal would be 1m closer to the property. There would be no changes to the previously proposed height or siting. In that respect the Council considers it has not addressed the previous issues and remains concerned that the garage would be an overly dominant and obtrusive

development given its prominent siting and elevated position in the streetscene.

6. I can appreciate the Council's concern about large structures in the front gardens, but nevertheless that is an integral part of the character of the immediate locality. As the appellant points out, there are numerous examples in the immediate area of garages in front gardens, including next door at No 7 The Rise, as well as Nos 5,14,28 and 30 The Rise. All are in prominent positions within the streetscene and some have little screening. In addition, there are properties with large forward projections including directly opposite the appeal site. The overall character therefore is one with an irregular building line and with several examples of garages in front gardens, irrespective as to whether the garages were built as part of the original development or not. The appeal proposal would therefore not be out of character in that respect.
7. I acknowledge that the site is in an elevated position above the road. However, when approaching from the west, it would not be apparent because of prominent vegetation in the front garden of No 7 The Rise. From the other direction it would be clearly visible but it would be seen against the backdrop of No 7 in distant views, and the appeal property itself from opposite views, where the ridge line would be approximately level with the lower elevation of the first floor front dormer.
8. In addition, there is vegetation in the adjoining area including the adjacent TPO oak tree and a large laurel hedge on the boundary with No 7. The plans also indicate the planting of a new laurel hedge on the roadside elevation of the garage and that two new trees would be planted on the bank in front. In time these will help to soften any visual impact. I also note that the decision notice refers to outstanding planting requirements for two trees following a permission to fell sweet chestnut trees as part of TPA/12/129. The proposed planting will address that requirement.
9. The garage would be in close proximity to the protected oak tree and there is a concern about potential adverse impact on the root system. However, an arboricultural report submitted with the application explains how careful construction involving sleeved piles within the root protection area, could protect those roots. The officer report does not challenge the arboricultural statement and I have no reason to doubt that adequate protective measures could be carried out provided the recommendations are adhered to.
10. Drawing the above together, I find that the proposed garage would not be out of place in the streetscene and would have an acceptable visual impact. It would therefore comply with Policy BNE1 of the Medway Local Plan 2003 in that it would be appropriate in relation to the character of the local area and would respect visual amenity of the surrounding area.
11. Conditions for the development to be built in accordance with the approved plans, for matching materials and to prevent the garage being used for a trade or business, are necessary in the interests of certainty and amenity. A condition requiring that the garage is built strictly in accordance with the arboricultural report is necessary in order to protect the adjacent protected oak tree. Finally, although two hornbeam trees are proposed, partly to provide screening and partly to address a previous requirement, it is not clear from the evidence before me whether such species are acceptable to the Council,

particularly in terms of the previously required replacement planting. A condition to require such detail is therefore necessary to ensure agreement in that respect.

12. Accordingly, the appeal is allowed and planning permission granted subject to the conditions set out in the schedule below.

Kim Bennett

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: location plan; 20/2468 and 20/2469.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The garage hereby permitted shall be used for vehicle parking and or/storage incidental to the enjoyment of the related dwelling house and for no other purposes including any trade or business. No permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land or in such a position as to preclude vehicular access to the garage parking spaces.
- 5) The construction of the garage shall be carried out strictly in accordance with the method statement and protective measures set out in the BS:5837 report dated 27 January 2021.
- 6) No development above ground level shall commence until details of the proposed planting species shown on drawing no 20/2468 have been submitted to and approved in writing by the local planning authority. All planting in the approved details of landscaping shall be carried out in the first planting season following the occupation of the garage or the completion of the development, whichever is the sooner; and 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.

ⁱ The Borough of Gillingham (Hempstead) No 9 Tree Preservation Order 1969

ⁱⁱ Application reference No MC/21/0454