



Appeal Decision

Site visit made on 23 March 2020

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st April 2020

Appeal Ref: W/4000547

16 Rogersmead, Tenterden, TN30 6LF

- 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 Theobald against the decision of Ashford Borough Council.
 - The application Ref 19/00632/AS, dated 26 April 2019, was refused by notice dated 17 September 2019.
 - The development proposed is described as 'Single storey 2 bedroom dwelling'.
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Decision

1. The appeal is allowed, and planning permission is granted for a single storey 2 bedroom dwelling at 16 Rogersmead, Tenterden, TN30 6LF in accordance with the terms of the application, Ref 19/00632/AS, dated 26 April 2019, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the development on:
 - The Character and Appearance of the surrounding area; and,
 - The living conditions of the occupiers of neighbouring properties.

Reasons

Character and Appearance

3. The appeal site comprises the side garden of No 16 Rogersmead (No 16) a detached two storey dwelling. The surrounding area is mainly in residential use, with a range of architectural styles including two storey dwellings and bungalows. The appeal site fronts directly onto Rogersmead and is screened by a close board fence, approximately 2 metres high which surrounds the site on its borders with the highway and the rear properties which front onto Pittlesden.
4. The development proposed would erect a single storey 2-bedroom dwelling, fronting onto Rogersmead, with a smaller garden to the rear and a larger garden to its side. Vehicular access would be taken from Rogersmead, with two parking spaces provided at the front of the new dwelling and a bin and cycle store integrated into the design of the front elevation. There would be a reduction in the extent of the close board fence along Rogersmead and additional tree and hedge planting at the front of the appeal site.

5. The proposed single storey height of the proposed dwelling with its frontage onto Rogersmead would be similar to other dwellings in the vicinity and the compatible use of materials, as shown in Drawing Number 997/A3/13B, would ensure that the new dwelling blends in with its surroundings and would not appear as a dominant or intrusive addition to the street scene.
6. Moreover, the proposed reduction in the length of fence and landscaping along Rogersmead would result in significant visual improvements to the appeal site's current appearance and to the Rogersmead street scene, which is currently dominated by the long length of fencing along the border with the highway.
7. The separation distance between the new dwelling and flank wall of No 16, approximately 1 metre, would be no less than the gap between neighbouring dwellings in the surrounding area and therefore would not appear to be at odds with the relationship between properties which exists in the area. Further, the area of outdoor living space, which would not be visible from the street or other public place would not conflict with Policy HOU15 of the Ashford Local Plan 2030 (2019) (LP), which sets out the requirements for private gardens attached to a house.
8. Based on my site visit, the proposed low-level dwelling, due to its design and overall scale would not jar with or appear as an incongruous addition to the pattern of development in the surrounding area. The combination of the layout and orientation of the new dwelling on the plot, with its frontage set back slightly from the highway, spacious side garden and adequate separation from No 16 would not result in the new dwelling appearing as a cramped form of development.
9. I conclude that the development proposed would comply with policies HOU3a (a) and HOU10 of the LP and paragraph 127 of the National Planning Policy Framework (2019) (the Framework), which when read together seek to ensure new development is of a design which is to a high standard and that residential development which can be integrated into the existing settlement has a layout, design and appearance that is appropriate and compatible with the character and density of the surrounding area.

Living Conditions

10. Due to the sloping ground of the appeal site, the side garden would be at a slightly higher level than the new dwelling, which would be approximately 1.8 metres from the fence along the shared boundary with the rear gardens of properties fronting onto Pittlesden.
11. Views towards the shallow, rear gardens of the properties on Pittlesden would be screened by the height and proximity of the close board fencing. Based on my site visit, there would be no worsening of the current situation with regards the views towards the upper floors of Nos 19-22 Pittlesden from the side garden of the new dwelling. Further, the internal layout and fenestration on the rear elevation of the new dwelling would direct views away from the rear of the properties fronting onto Pittlesden avoiding any harmful overlooking.
12. I have had regard to the concerns of the occupiers of the properties fronting Pittlesden abutting the appeal site, relating to overlooking, loss of privacy and an overbearing effect of the new dwelling. However, I am satisfied, based on my site visit, that there would be no significant loss of privacy for the reasons

previously outlined and the new dwelling's low pitch roof design and low-level height, which would be lower than the roof line of No 16 would not as a result, have an overbearing effect on the occupiers of the properties fronting onto Pittlesden.

13. I have had regard to the concerns of the occupiers of No 21 Pittlesden (No 21) with regards overlooking and loss of privacy from the bedroom and living room of the new dwelling. However, based on my site visit, there would be no significant views of No 21 from the new dwelling due to the significant separation distance between the two dwellings; the orientation and layout of the new dwelling on its plot; the elevated height of the side garden above the new dwelling and screening provided by the close board fence along the shared boundary and given that No 21 is sited at a slightly lower level than the appeal site. The combined effect of these would result in no significant harmful views towards No 21 from the new dwelling.
14. I note that the appellant has proposed a condition that would provide obscure glazing to the window of the bathroom adjacent to bedroom 1 as a means of avoiding any sense of overlooking towards neighbours at the rear of the new dwelling and willingness to remove permitted development rights to address the concerns of the occupiers of the neighbouring properties.
15. Whilst the bathroom would be approximately 1.8 metres from the shared boundary and would be screened by the close board fencing, such a condition would be appropriate and would mitigate the perceived sense of overlooking for the occupiers of the properties on Pittlesden. Further, removal of permitted development rights within Class A and E of Part 1 and Class A of Part 2 of Schedule 2 of Town and Country Planning (General Permitted Development) Order 2015 would mitigate any future prospect of overlooking and loss of privacy, which the design and layout of the development proposed currently achieves.
16. I conclude that the development proposed would not have a harmful effect on the living conditions of the occupiers of the properties to the rear of the new dwelling and would comply with policies HOU3a (b), HOU10 and Paragraph 127 of the Framework, which when read together seek to ensure development in residential gardens is to a high standard of design which does not have a detrimental impact on the amenity of neighbouring residents.

Other Matters

17. Interested parties have concerns on a range of matters, which includes a covenant on the appeal site preventing development of the appeal site, but as there is no evidence to support this concern, I have not pursued the matter further. I have also had regard to the concern with regards the appeal site representing backland development, but in this case the appeal site's plot orientation with the new dwelling fronting directly onto Rogersmead would be similar to the pattern of residential development in the surrounding area and therefore would not be characteristic of backland development. I have had regard to the concern with regards the site being too small, but I am satisfied that this has been addressed on the first main issue. Whilst I have had regard to these concerns, they do not alter my decision.

Conditions

18. The Council has proposed a number of conditions which I have assessed against the advice in the Planning Practice Guidance (PPG) and for the purposes of brevity or clarity have amended as appropriate.
19. Condition 1 is the standard time limit to comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2014. Condition 2 is for the avoidance of doubt and to ensure development is carried out in accordance with the approved plans. Condition 3 is in the interests of protecting the character and appearance of the area.
20. Condition 4 is to ensure that the development provides adequate vehicle parking provision and Condition 5 takes into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles. Conditions 6 and 7 are in the interest of protecting the character and appearance of the area.
21. Condition 8 is to protect and enhance existing species and habitat on the site in the future. Condition 9 is in the interests of protecting the living conditions of the future occupiers of the new dwelling and the occupiers of neighbouring properties. Condition 10 is in the interests of protecting the character of the area and the living conditions of the occupiers of neighbouring properties.

Conclusions

22. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans: 997.A4.01; 997/A3/15; 997.12A; 997.14A; 977.14B; 977.13B; 997/A3/11A
3. Written details including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally and details of the proposed hardstanding shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced above damp proof course level and the development shall be carried out using the approved external materials.
4. The approved parking areas shall be 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 this reserved parking space.
5. Prior to the first occupation the dwelling shall be provided with at least one electric vehicle charging point. The charging point may be a dedicated electric vehicle charging socket, or a suitably rated three-pin socket capable of safely providing a slow charge to an electric vehicle via a domestic charging cable. The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles.
6. 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 development is commenced above damp-proof course level. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion 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.
7. Details of walls and fences to be erected within the development shall be submitted to and approved in writing by the Local Planning Authority before the development commences above damp-proof course level. The walls and fences shall then be erected before the adjoining part of the development or dwelling is occupied in accordance with the approved details.
8. Prior to the first occupation of the development, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved proposals prior to the occupation of the development and shall be carried out in perpetuity.

9. The building hereby permitted shall not be occupied until the bathroom and toilet windows have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Class A and E of Part 1 and Class A of Part 2 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.