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## Appeal Decision

Site visit made on 4 June 2019

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12<sup>th</sup> June 2019

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**Appeal Ref: APP/V2255/D/19/3226918**

**20 Hustlings Drive, Eastchurch, Sheerness, Kent ME12 4JX**

- 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 Dennis Kavanagh against the decision of Swale Borough Council.
  - The application Ref 19/500219/FULL was refused by notice dated 11 April 2019.
  - The development proposed is the erection of a workshop garage with self-contained annexe above to facilitate the care of an elderly parent.
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### Decision

1. The appeal is allowed and planning permission granted for the erection of a workshop garage with self-contained annexe above to facilitate the care of an elderly parent at 20 Hustlings Drive, Eastchurch, Sheerness, Kent ME12 4JX in accordance with the terms of the application Ref 19/500219/FULL dated 15 January 2019 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) 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.
  - 3) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan, CB-001, CB-002 Revision 01, CB-003, CB-004, CB-005 and CB-006.
  - 4) Before the building hereby permitted is first occupied, the window in the first floor rear elevation shall be obscure glazed, and it shall subsequently be maintained as such at all times.
  - 5) The building hereby permitted shall not be used or occupied at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as 20 Hustlings Drive.
  - 6) The relocated/replacement tree shall be planted within 12 months of the completion of the development in the position shown on Drawing No. CB-002 Revision 01. If the tree is removed, dying, being severely damaged or

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becoming seriously diseased within five years of planting, it shall be replaced with a tree of such size and species as may be agreed in writing with the Local Planning Authority and within whatever planting season is agreed.

#### **Main Issues**

2. I consider the main issues to be:

the effect of the proposal on the character of the existing dwelling and the appearance of the surrounding streetscene; and

whether the proposal would constitute the creation of an independent dwelling.

#### **Reasons**

3. The appeal dwelling is situated within a primarily residential area of dwellings of similar form, with notably large plots on prominent corner locations. The appeal dwelling is a large detached modern dwelling on a corner location. It is situated in a large garden and the space between the dwelling and the neighbouring dwelling at No. 22 Hustlings Drive is larger than the predominately smaller gaps between dwellings in the surrounding area.
4. The proposal includes a detached garage with a self-contained annexe above, to be situated to the side of the existing dwelling adjacent to the property at No. 22 Hustlings Drive. There would be a new driveway to the garage. The proposed building would be similar in design to a building situated within the curtilage of No.18 Hustlings Drive, which is another large corner plot.
5. The materials would match those on the dwelling and the building would follow the same orientation as the dwelling. From my observations, due to the scale and design of the proposed building, I consider that it would appear subservient to the existing dwelling and would be in keeping with the character of the dwelling. In addition, the proposed new driveway would not appear as an incongruous addition. Whilst the proposal would reduce the gap between dwellings, this gap is significantly larger than many in the immediate area. As such, I do not consider that the proposal would create a cramped appearance and it would not have an adverse effect on the appearance of the surrounding streetscene.
6. The proposal includes the provision of a self-contained annexe above the garage. Whether this would be an annexe or an independent dwelling is a matter of fact and degree. The distinctive characteristic of a dwelling house is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.
7. The provision of a kitchenette and shower room would indicate that the building would be capable of being used independently with no functional or practical linkage to the main dwelling. However, the habitable floor space of the annexe would be a limited area of only some 23.9m<sup>2</sup> useable space, as it would be situated in the pitched roof of the garage. Therefore, due to the scale of the annexe, I consider the proposed development would constitute an annexe dependant or ancillary to the main house, rather than being capable of being used independently as a separate dwelling.

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8. In reaching my conclusion, I have had regard to all matters raised. Concern has been raised regarding precedent. I have determined the proposal on its individual merits, particularly the location of the proposed building.
9. Concern has been raised regarding loss of sunlight to the rear garden of No. 22 Hustlings Drive and loss of privacy. Due to the scale and position of the proposed building, I do not consider that it would cause unacceptable overshadowing of the adjacent rear garden. However, I do consider that the proposed position of the first floor rear window would cause an unacceptable loss of privacy for neighbours when in their rear garden. Therefore, I intend to impose a condition requiring this window to be obscure glazed to prevent such a loss of privacy to neighbours.
10. For the reasons stated above, I conclude that the proposal would not have an adverse effect on the character of the existing dwelling or on the appearance of the surrounding streetscene and would not constitute the creation of an independent dwelling. Thus, the proposal would be in accordance with guidance in the Council's Supplementary Planning Guidance: Designing an Extension - A Guide for Householders and in accordance with Policies DM14 and DM16 in Bearing Fruits 2031: The Swale Borough Local Plan (2017), where they seek to ensure high quality design. I consider these Policies are broadly consistent with the National Planning Policy Framework where the Framework seeks to ensure good design.
11. Apart from standard time, materials and plans conditions, the Council has suggested conditions regarding obscure glazing, ancillary use and replacement of the Silver Birch tree. The Silver Birch tree makes a positive contribution to the appearance of the streetscene and would need to be relocated to construct the proposed driveway.
12. As mentioned above, in the interest of residential amenity, I consider it reasonable and necessary to impose a condition regarding obscure glazing to the rear window. In the interest of the amenities of the area, I consider it reasonable and necessary to impose conditions regarding ancillary use and replacement of the Silver Birch tree.
13. I have amended the suggested conditions, where appropriate, in the interest of precision and enforceability.

*J L Cheesley*

INSPECTOR