



Appeal Decision

Site visit made on 1 September 2015

by **Alex Hutson MATP CMLI MARborA**

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

Decision date: **22 October 2015**

Appeal Ref: APP/V2255/W/15/3008842

**Land to the rear of 49 Parsonage Chase, Minster on Sea, Sheerness
ME12 3JX**

- 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 S Potter against the decision of Swale Borough Council.
 - The application Ref 14/502820/FULL, dated 7 August 2014, was refused by notice dated 19 January 2015.
 - The development proposed is a detached three bedroom dwelling with associated parking.
-

Decision

1. The appeal is allowed and planning permission is granted for a detached three bedroom dwelling with associated parking at land to the rear of 49 Parsonage Chase, Minster on Sea, Sheerness ME12 3JX in accordance with the terms of the application, Ref 14/502820/FULL, dated 7 August 2014, and the plans submitted with it, subject to the schedule of conditions attached.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the surrounding area; and on the living conditions of the existing occupiers of neighbouring properties and the future occupiers of the proposal, with particular regard to overlooking and resulting loss of privacy.

Reasons

Character and Appearance

3. The appeal site is located to the rear of 49 and 51a Parsonage Chase and comprises hard standing with 2 metre high timber fencing around its perimeter. The surrounding area is predominantly residential in character comprising detached houses and bungalows of various styles with generous sized gardens, contributing to a perception of openness that positively contributes to the character and appearance of the area. In contrast, Tysoe Court, to the immediate east of the appeal site and located at a higher level, comprises terraced residential properties of a higher density with smaller gardens. Beyond the gardens of 51 and 53 Parsonage Chase, that are located to the immediate south of the appeal site, is a footpath and area of open space from which views across the appeal site towards gardens and residential properties along Summerville Avenue are obtained.

www.planningportal.gov.uk/planninginspectorate

Appeal Decision APP/V2255/W/15/3008842

4. The appeal site has a planning history and has been subject to two previous appeals, the most recent being Ref APP/V2255/A/14/2213750, and I have considered the previous Inspector's findings and recognise the need for consistency in these matters. The scheme before me differs from that of the previously considered scheme in some respects. The proposal has a reduced height, bulk and massing, has been redesigned to incorporate a hipped roof as oppose to gable ends and has been repositioned within the appeal site.
5. It is my consideration that the reduced height, bulk and massing, amended roofscape and repositioning of the proposed dwelling within the appeal site, would result in a significantly less conspicuous form of development in views from the south than that of the previous scheme that would consequently respect the open character of the surrounding area. In addition, this would assist in maintaining the open character and appearance of the surrounding area in the limited number of views obtained across the appeal site from surrounding private residential properties. In this context, the proposal overcomes the concerns raised by the previous Inspector in this regard and would not cause significant harm to the character and appearance of the surrounding area.
6. Furthermore, existing vegetation within the gardens of Nos 51 and 53 and proposed planting along the southern boundary of the appeal site that could be secured by an appropriate condition, would further assist in softening and screening the visible built form of the proposal in views from the south.
7. The proposal respects the character and appearance of the area and complies with saved policies E1- General Development Criteria and E19- Achieving High Quality Design and Distinctiveness of the Swale Borough Local Plan 2006 (Local Plan), which amongst other things, seek to ensure development that responds positively by reflecting the positive characteristics and features of the site and locality and that promotes and reinforces local distinctiveness. These policies are consistent with the overarching aims and principles of the National Planning Policy Framework (the Framework) that requires, amongst other things, planning to secure high quality design and to take account of the different roles and character of different areas.

Living Conditions

8. I accept the proximity of the windows on the south-west flank wall of 6 Tysoe Court would give rise to a level of overlooking of the proposal by the current occupiers. However, as a result of the positioning of the proposed dwelling and associated garden areas, any overlooking would be limited to a small part of the garden, as demonstrated by the Appellant on plan PO/13/130.03 Rev A. By virtue of the limited overlooking of the garden and as there are no habitable rooms within the proposal that would be overlooked to a substantial degree, I find no significant harm to the living conditions of the future occupiers of the proposal with regard to loss of privacy.
9. The Council also notes, in the Officer's Report, that the living conditions of the future occupiers of the proposed dwelling would be harmed as a result of the proximity of windows to the high boundary fences that would be required if the proposal were to maintain privacy levels. However, it is my consideration that the 4.5m distance between the windows of habitable rooms and the existing 2 metre high wooden fencing surrounding the appeal site, a typical height for a garden fence, would not result in an overbearing sense of enclosure. In

Appeal Decision APP/V2255/W/15/3008842

addition, the height of this fence would not need to be any higher to maintain privacy levels.

10. All windows of the proposal are at ground floor level, with those on the east elevation facing Tysoe Court comprising obscured glazing. I consider that this, in addition to the 2 metre high wooden fencing that surrounds the appeal site that would be retained, would respect the privacy of the occupiers of neighbouring properties and would not result in harm to their living conditions in this respect.
11. The proposal would therefore respect the living conditions of the existing occupiers of neighbouring properties and the future occupiers of the proposed dwelling. This would comply with Local Plan policy E1 that, amongst other things, seeks to ensure development causes no demonstrable harm to residential amenity. This policy is consistent with the broad aims and principles of the Framework that seeks, amongst other things, to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

12. I acknowledge neighbour concerns and the concerns of Minster Parish Council relating to construction noise, nuisance, light pollution, throwing of litter into neighbouring gardens, traffic, parking stress and devaluation of existing properties. However, devaluation of property and throwing of litter into neighbouring gardens are not material planning considerations to which I can afford any significant weight. With regard to the other concerns, these did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm, either individually or cumulatively, that would justify dismissal of the appeal. Furthermore, the issue of noise from construction activity can be mitigated through an appropriately worded condition to limit construction activity to certain times of the day.

Conditions

13. I have had regard to the various planning conditions that have been suggested by the Council. A condition setting a time limit for the commencement of development is necessary in the interests of proper planning. For the avoidance of doubt and in the interests of proper planning, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. Conditions relating to drainage are considered appropriate in the interests of minimising flood risk and groundwater pollution. Those conditions relating to materials and hard and soft landscaping are appropriate in the interests of character and appearance. A condition relating to sustainable construction techniques is appropriate in the interests of enhancing the sustainable capacity of the development. I agree a condition limiting construction hours is required in the interests of the living conditions of the occupants of neighbouring properties. I also agree that a condition relating to parking is required for continued highway safety.
14. However, I do not consider a condition relating to control of dust is required during demolition and construction as there are no existing buildings on the site to demolish, and dust is unlikely to be a significant issue during the construction process. I also do not consider that a condition relating to a dropped kerb at No 20 is of relevance to the proposal. There is also no

Appeal Decision APP/V2255/W/15/3008842

evidence before me to demonstrate any piling activity would have a harmful effect on groundwater that justifies a condition relating to this.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Block Plan PO/13/130.03 Rev.A; Proposed Floor and Roof Plans PO/13/130.01 Rev.A; Proposed Elevations PO/13/130.02 Rev.A
- 3) The dwelling shall not be occupied until works for the disposal of sewage and surface water 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.
- 4) No development shall take place until full details, including a plan, of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to occupation. These details shall include means of enclosure; hard surfacing materials; a schedule of plants including species, size and number; and a schedule of maintenance.
- 5) Any tree or plant that is dead or dying within 5 years of the completion of landscape works shall be replaced as per the approved details.
- 6) No development shall take place until full details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. These measures shall be implemented in accordance with the approved details and retained as such thereafter.

Appeal Decision APP/V2255/W/15/3008842

- 8) Construction works shall not take place outside 0730 hours to 1900 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 9) The area shown on submitted plan PO/13/130.03 rev A as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto. Such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.