



Appeal Decision

Site visit made on 9 May 2016

by **D M Young BSc (Hons) MA MIHE**

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

Decision date: 27th May 2016

Appeal Ref: APP/V2255/W/16/3142913

Land adjoining 58 Wells Way, Faversham, Kent ME13 7QP.

- 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 Discovery Investments & Oddjobs Co Ltd. against the decision of Swale Borough Council.
 - The application Ref 15/509013/FULL, dated 27 October 2015, was refused by notice dated 23 December 2015.
 - The development proposed is the erection of a detached bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached bungalow at land adjoining 58 Wells Way, Faversham, Kent ME13 7QP in accordance with the terms of the application, Ref 15/509013/FULL, dated 27 October 2015, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until 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.
 - 3) Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
 - 4) No development shall take place until a scheme of landscaping works to the frontage of the site has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. All work shall be carried out in the first planting season after commencement of the development unless agreed otherwise in writing by the local planning authority, and shall be maintained for a period of 5 years. Any trees and shrubs that die within 5 years shall be replaced with a like for like species.
 - 5) Once provided, the areas shown for car parking on the approved plan shall be retained.
 - 6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and
-

Appeal Decision APP/V2255/W/16/3142913

re-enacting that Order with or without modification), no development within Classes A, B, C and D of Part 1 to Schedule 2 of the Order shall take place.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the area.

Reasons

3. The appeal site forms part of a wider planned post-war housing estate comprising bungalows and two-storey houses of fairly simple proportions and detailing. There is little consistency in the orientation of dwellings to the street or their set back from it. Given this variety, I do not agree that the character and appearance of the area is distinguished by a notable spaciousness or a sensitive relationship between dwellings and Wells Way.
4. The appeal site comprises a triangular plot of land on the east side of Wells Way. It is mainly laid to grass and contains a few small trees. The appellant has drawn my attention to the recently constructed bungalow opposite the appeal site between 25 and 27 Wells Way which was allowed on appeal in 2015 (Ref: APP/V2255/W/14/3001764).
5. I acknowledge the importance of consistency in these matters and having viewed both sites, it is apparent that there are a number of similarities between the two schemes. Therefore, whilst I have assessed the appeal before me on its own merits, in view of the similarities and proximity between the two sites, the 2015 decision is a material consideration to which I attach considerable weight.
6. The appeal scheme seeks permission for a L-shaped bungalow. The Council argue that the site is very small and the bungalow would be sited too close to the footway. Although the dimensions and shape of the appeal site are constrained by properties around it, the plot size of dwellings in the locality is varied. The plans show the dwelling would be set back 1.5 metres from the back of the footway and as a result there would be sufficient space to provide landscaping along the frontage of the site. In addition, there would be sufficient areas for off-street parking and outdoor amenity space. The Council have not cited any local standards for garden sizes that might be breached if I were to allow the appeal. Thus viewed in its context with the bungalow opposite, to which it bears a strong resemblance in design terms, I do not consider the bungalow would appear cramped or incongruous.
7. In terms of the impact of the proposal on the street scene, the dwelling would be sited closer to the roadside than most properties in the area. However when viewed from public vantage points the dwelling would be mainly seen against those existing bungalows to the north and south. Moreover, landscaping along the frontage would soften its visual impact and help its assimilation into the street scene.
8. Based on the foregoing, I conclude that the proposal would be in accordance with Policy E1 of the Swale Borough Local Plan (2008) which requires development to be well sited and appropriate to its location and Policy E19 which requires development to be of a high quality design. The purposes of these policies are consistent with the Framework which seeks, among other

Appeal Decision APP/V2255/W/16/3142913

things, to ensure development is of a good quality design, adds to the overall quality of the area and reinforce local distinctiveness.

9. In coming to this view, I have had regard to the Council's argument that the appeal site and other open spaces in the area are an intrinsic part of the estate and provide amenity to local residents. Whilst this may be so, I share the view expressed by my colleague in relation to the 2015 appeal that whilst having the appearance of a public area, the appeal site is nonetheless privately owned.

Other Matters

10. The effect of the development on highway safety has been raised by local residents. However, the Highway Authority has not objected to the development and I have seen no substantive evidence that visibility from either the proposed driveway or adjacent private access would be deficient. Ownership of the land and the effect on property prices are not material planning considerations to which I can attach significant weight.
11. Finally, local residents have expressed a wide range of concerns including; the effect on flooding, the health and wellbeing of neighbouring occupiers and overshadowing. However, whilst I understand the concerns of local residents, there is no compelling evidence before me which would lead me to conclude differently to the Council on these matters.

Conditions

12. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
13. In addition to the standard time limit condition, those conditions suggested by the Council relating to external materials and landscaping are necessary to ensure the appearance of the building is compatible with its surroundings. Restrictions on working hours during the construction period are required in the interests of residential amenity. A condition relating to the retention of the parking area is necessary to prevent parking on the highway. The Council has suggested that a condition restricting permitted development rights should be imposed. Due to the size of the appeal site, I consider it would be reasonable to remove permitted development rights under Classes A, B, C and D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 2015.
14. The Council has not provided any justification, policy or otherwise, for a condition requiring details of sustainable construction techniques which are usually secured via the Building Regulations. As such, whilst the objectives of such a condition may be laudable, advice in the PPG is clear that a condition must be justified by the nature or impact of the development being permitted. I am not persuaded that the development would be unacceptable without such a condition and consequently the six tests set out in the Framework are not met.
15. Whilst the objectives of such a condition may be laudable, the PPG is clear that it is not sufficient that a condition relates to planning objectives: it must also be justified by the nature or impact of the development being permitted. I am

Appeal Decision APP/V2255/W/16/3142913

not persuaded that the development would be unacceptable without such a condition and consequently the six tests set out in Framework are not met. The property and garden would be sufficient for the storage of cycles and therefore a separate condition is unnecessary.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I consider the appeal should succeed.

D. M. Young

Inspector