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## Appeal Decision

Site visit made on 8 September 2014

**by L Gibbons BA (Hons) MRTPI**

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

**Decision date: 9 January 2015**

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**Appeal Ref: APP/X2220/A/14/2218838**

**Palmerston, Lighthouse Road, St Margarets Bay, Dover CT15 6EL**

- 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 Mark Febery (MF Estates) against the decision of Dover District Council.
  - The application Ref DOV/14/00021, dated 10 January 2014, was refused by notice dated 3 April 2014.
  - The development proposed is the erection of a dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at Palmerston, Lighthouse Road, St Margarets Bay, Dover CT15 6EL in accordance with the terms of the application, Ref DOV/14/00021, dated 10 January 2014, subject to the conditions set out below:
  - 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: 998/01 Rev A; 998/02 Rev A; 998/03 Rev A.
  - 3) No development shall take place until samples 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.
  - 4) The development shall be carried out in accordance with the measures contained within Section 10 and Section 11 of the Philip Wilson Arboriculture Tree Survey dated September 2013.

### Application for costs

2. An application for costs was made by Mr Mark Febery (MF Estates) against Dover District Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and the effect on the living conditions of the occupiers of La Manica Vista and Kingsmead in respect of privacy.

## Reasons

### *Character and appearance*

4. The appeal site is located within a residential area in between Sea View Road and Lighthouse Road. The houses in the surrounding area are detached properties which are individually designed; they vary considerably in ages and types with a mix of two storey houses and bungalows. A number of houses on the northwest side of Sea View Road have trees within the gardens and tall hedgerows on the boundary with the road, which gives this area a verdant character. Some of the houses to the south east of the appeal site have a slightly more built up quality with fewer trees and lower hedgerows or other boundary treatment. Overall, the area has a very pleasant and varied character.
5. The appeal site is part of the garden of Palmerston, which is accessed from Lighthouse Road. The proposed scheme is for a new dwelling which would be accessed from Sea View Road. The proposed dwelling would be contemporary in appearance. The Council do not object to the principle of development in the area or to the detailed design of the proposed dwelling. However, the Council refer to the Kent Design Guide 2005. This sets out that proposals for development should show an understanding of and respect for the character of existing villages. From the information provided it is not clear what status this document has and this must temper the weight I give it.
6. The properties of Kumara and Casale which are adjacent to the appeal site are set back from the road. Although there is not a strong building line on this side of Sea View Road, the proposed dwelling would come forward of these two properties. The houses on the opposite side of Sea View Road are positioned much closer to the road, although the building line also varies somewhat. Some houses sit within the middle of very large plots with space to all the boundaries. Others, including La Manica Vista and Kingsmead which are located opposite the appeal site are close to the flank boundaries of their plots.
7. The appeal site is located on land which slopes up towards the northwest. Kumara and Casale are set on top of the slope. The proposed dwelling would have a basement incorporating a garage and gym/cinema with two floors above this. When seen from the access to the proposed dwelling, three storeys would be visible.
8. However, the scheme would involve the excavation of the appeal site and the proposed dwelling would therefore be located on land which is lower than Casale and Kumara. This would result in the proposed development having a roofline which would be lower than that of the adjoining properties. The areas of glazing would lighten the building and horizontal elements of the design would soften the appearance of the dwelling within the plot.
9. Casale and Kumara are large houses and the proposal would be similar in size and scale to these properties. Although closer to the road than these two properties, the dwelling would still be set back sufficiently within the site so as not to be overly dominant or overbearing against the chalet bungalow and bungalow on the opposite side of the road. I therefore do not agree with the Council that the proposed dwelling would appear intrusive within the streetscene.

10. Proposals for landscaping, replacement boundary hedgerows and the retention of the protected trees on the site would help to retain the verdant character of the area. I consider that there would be sufficient space to the boundaries of the appeal site that the proposed scheme would not appear cramped within its site. When considered in combination with Kumara and Casale being located away from the proposed house, this would ensure that there would be clear separation between the adjoining houses. This would retain a sense of openness in this location.
11. I acknowledge that the proposed dwelling would be within a smaller plot than that of Kumara and Casale. However, there is such a variety to plot sizes and site coverage on both Sea View Road and Lighthouse Road that the proposal would not appear overly constrained in relation to the surrounding area. I accept that there are not many examples of contemporary dwellings or extensions and alterations to existing properties, nevertheless there are some present and the variety of designs is very extensive. I therefore consider that a contemporary dwelling in this location would not be at odds with the wider character of the area.
12. For the reasons given above, I conclude that the proposed development would not cause harm to the character and appearance of the area. It would not be in conflict with the provisions of the National Planning Policy Framework (the Framework) where it relates to the need for high quality design.

#### *Living conditions*

13. The proposed dwelling would have large windows and balconies which would face south east towards La Manica Vista and Kingsmead, these properties are set on slightly lower ground than Sea View Road. The Council refer to the road being private and the front rooms of these houses are therefore not public facing. However, traffic and pedestrians would still pass along the road to other houses and the open countryside beyond. Therefore I consider that they have a public facing aspect which would be different to the more private windows and garden at the rear of the houses.
14. In respect of the effect of the proposed development on the occupiers of La Manica Vista, there would be a bedroom and other windows on the first floor that would face towards the front rooms and the front garden of that property. However, there would be a distance of over 20 metres to the front elevation of La Manica Vista. There would be a boundary hedge that would also provide some screening between the proposed dwelling and La Manica Vista.
15. With regard to Kingsmead, the balconies and windows of the lounge and a bedroom of the proposed dwelling which would face towards this property, including the front garden. However, the window of the room on the north corner of the front elevation of Kingsmead would be seen at a slightly oblique angle from the appeal property. This is due to the relative position of the appeal site with Kingsmead. This would also be at a distance well in excess of 20 metres.
16. Whilst I accept that there would be views from the appeal site towards La Manica Vista and Kingsmead where there currently are none, I consider that the relationship between these houses and the proposed dwelling would be sufficient to ensure that acceptable levels of privacy would be maintained for the occupiers of those properties.

17. For the reasons given above, I conclude that the proposed development would not cause harm to the living conditions of the occupiers of La Manica Vista and Kingsmead in respect of privacy. It would not be contrary the provisions of the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

*Other matters*

18. I note that the Council are concerned about the outdoor amenity space to be provided within the proposed scheme although they do not refer to any specific guidance or standards. The garden areas would be located on the southern side of the proposed development, with some to the rear of the property on the boundary with Palmerston. I have taken account that these areas would be screened from the road ensuring that the space would be private and the scheme would incorporate accessible balconies. I consider that the proposed development would provide sufficient outdoor amenity space for the future occupiers.
19. Local residents are concerned about the effect of the proposed development on parking and highway safety, including access for excavation, construction and emergency vehicles. I note that the Council and Highways Authority do not object in this respect. Having given the matter careful consideration on my site visit, including the width of Sea View Road, on-street parking space and the ability for traffic to pass safely; and on the basis of the evidence before me, I see no reason to disagree with the Council on this matter.
20. The proposal is accompanied by a Tree Survey and the Council do not object to the proposed development in respect of the protected trees on the site subject to a suitable condition. Matters of drainage and surface water are also raised by local residents. However, the Council do not raise any concerns in this respect and I have not been provided with detailed information. Therefore, this does not constitute a valid reason for dismissing the appeal.

**Conclusion and conditions**

21. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance (PPG). For the avoidance of doubt and in the interests of proper planning, a condition is necessary specifying the approved plans. A condition relating to the external materials to be used in the construction of the dwelling and protected trees is necessary in the interests of protecting the character and appearance of the area. I have amended the condition relating to the trees to also refer to section 10 of the Tree Survey as this includes some recommendations relating to the trees on the site. The Council suggest a condition relating to ground levels and the approved drawings, however these are shown on the plans and therefore a condition relating to this is not necessary.
22. For the above reasons and having regard to all other matters raised including concerns raised by neighbours in relation to a covenant and the potential use of the proposed dwelling, I conclude that subject to the conditions set out above, the appeal should be allowed.

*L Gibbons*

INSPECTOR