

- a) **DOV/21/00881 – Erection of a single storey outbuilding with decking, steps and railings (part retrospective) - Land at 67 Canterbury Road, Lydden**

Reason for report: Number of contrary views.

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Core Strategy (CS) Policies

- DM1

National Planning Policy Framework 2021 (NPPF)

- Section 12 is relevant as the proposal should seek to achieve well-designed places

The Kent Design Guide (KDG) (2005)

National Design Guide (2019)

Regulation 18 Consultation on the Draft Local Plan

The Draft Local Plan has undergone its first public consultation exercise, which expired in March 2021. At this stage only minimum weight can be afforded to the policies of the Plan.

- d) **Relevant Planning History**

There is no relevant planning history related to the proposed development.

- e) **Consultee and Third-Party Responses**

Lydden Parish Council: Provided a detailed response but in essence raises objections to the proposal on the basis of invasion of privacy and the negative impact upon neighbouring properties.

Third party Representations: There have been 24 representations received. Of these, 14 responses raise objections, and 10 responses support the application. The objections can be summarised as follows:

- The building is too large, dominant, disproportionate, overbearing and out of keeping
- The development is oppressive and imposing and results in the loss of sunlight into neighbouring gardens
- The development gives rise to overlooking and loss of privacy
- The use of the building as a bedroom would increase the degree of overlooking and loss of privacy
- The building was not constructed into the ground and with the use of posts that project above ground – this increases the height of the development

- The building is constructed contrary to Fire and Building Regulations
- The drawings and information submitted are misleading and inaccurate

The supporting comments can be summarised as follows:

- The proposal brings the rear garden area fully into use
- The proposal does not lead to unacceptable levels of overshadowing, overlooking or loss of privacy
- Additional screening can be provided to help mitigate loss of privacy
- The building is well-proportioned and improves the appearance of the area
- The proposal improves natural surveillance
- The proposal obviates the need to extend the application property, which would be difficult
- New fencing has recently been erected along the boundary with No.69 which improves the level of mutual privacy

f)

1. **The Site and the Proposal**

- 1.1 The application property is a two storey, mid-terraced Victorian cottage, located within Lydden Village. Beyond the immediate section of the garden to the rear of the application property, the garden rises up the side of the hill in a southerly direction. The other rear gardens of properties along this terrace also rise in a southerly direction.
- 1.2 Both Nos.65 and 69, the adjoining properties, have gardens that rise toward their rear boundaries. These also have outbuildings and a degree of terracing – areas of the rear gardens that have been ‘flattened’ within the slope of the land, so that they can be used as seating areas.
- 1.3 Due to the rising topography, there are views from the back of the rear gardens across gardens and towards the terrace of properties. Some views are partly screened through boundary enclosures, outbuildings and landscaping/vegetation.
- 1.4 Although the application property and terrace, are located within the confines of the settlement, as designated within the Core Strategy, the parts of the garden that rise up the hillside fall outside the confines of the village settlement. However, this ‘boundary’ line is not visible or otherwise obvious within the gardens.
- 1.5 This section of the village, the application property and terrace and the extent of their rear boundaries, are located within the Area of Outstanding Natural Beauty (AONB).
- 1.6 The application proposal has been mostly constructed. This involves the erection of a timber outbuilding, with a shallow pitched roof, which is located at the end of the garden at approximately 21m. In front of this building is an upper decked area. There are steps down to a lower decked area and then steps down to the lawned part of the garden. The building works have been carried out, but the interior of the building has not yet been finished.

2. Main Issues

2.1 The main issues are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on residential amenity

Assessment

Principle of Development

2.2 The application site falls partly within and partly outside the settlement confines of Lydden. The proposed development falls outside the confines, within the countryside. Under Policy DM1, development is permissible within the countryside if it is ancillary to an existing use or development. As the proposal is for the benefit of the occupiers of the application property, within the garden, the proposed development would be in accordance with Policy DM1. As such, under Policy DM1, the proposed development is acceptable in principle.

Impact on Character and Appearance

2.3 The proposed development is visible at a distance from Canterbury Road when viewed from either side of the terrace of properties. It is a suitable distance from the public highway not to appear prominent in the street scene. It is visible within the context of other buildings and vegetation located on the side of the hill. As such, it does not appear intrusive, and the prevailing visual quality of the street scene is preserved.

2.4 The application building appears as an outbuilding. It is constructed of timber with a shallow pitched, felted roof. Although it has UPVC windows, which adds a degree of domestication to its appearance, the building is not considered to be poorly designed, disproportionate or otherwise out of keeping within its garden setting.

2.5 The AONB designation extends across the built and unbuilt sections of the village. Although visible on the hillside from Canterbury Road, the proposed development is within the existing garden area of the application property, adjoining other gardens either side and above, and not visible within the context of the open and wider landscape. As the proposal does not encroach beyond the garden and is visible as a 'garden' or domestic structure, it is not considered that the landscape and scenic beauty of the AONB is harmed.

2.6 The decked areas that have been created as part of the proposal are less visible within the street scene and in the context of the AONB. As such, the decked areas and steps that serve the development are not considered to harm the prevailing character and appearance of the area or the landscape and scenic beauty of the AONB.

Impact on Residential Amenity

- 2.7 The pre-existing contours and topography of the garden, prior to the proposed development being carried out, would have provided or would have had the potential to provide a degree of overlooking across and down the adjoining gardens towards the buildings that form part of the terrace, in particular.
- 2.8 The immediate properties either side, have terraced areas and outbuildings in the rear half of the gardens which also allow a degree of overlooking across and down the gardens.
- 2.9 The above matters comprise material considerations in the determination of the current application.
- 2.10 It is considered that the proposed building stands out more than those outbuildings in adjoining gardens. Although the building, in itself, is not considered to be particularly large or imposing, its location at the top of the garden makes it appear more prominent than those in the adjoining gardens.
- 2.11 The windows in the front elevation of the outbuilding would allow the occupiers of the building to be able to look towards the rear elevations of the terrace of properties and partly across the gardens of adjoining properties. Notwithstanding, it is considered that the building is suitably separate from the adjoining buildings (21 metres) to avoid having an overbearing or otherwise intrusive impact upon the living conditions of the occupiers of adjacent properties.
- 2.12 Similarly, the views from the outbuilding are at a distance from the adjacent properties and the windows in their rear elevations, measured at around 21 metres, to avoid having an unduly harmful impact upon the privacy of the occupiers of these properties from overlooking. In coming to this conclusion, the pre-existing intervisibility between properties has been taken into account.
- 2.13 It is considered that the greater potential for overlooking and loss of privacy comes from the decking areas in front of the outbuilding – which are large enough to provide sitting out areas. Again, there are views across and down adjoining gardens, but the upper decked area provides virtually un-impeded opportunities for looking across and down over the side boundary fence, shared with No.69, to two small seating areas created within terraces. As a means of mitigating this level of harm, a planning condition is recommended, should permission be granted, to require the applicant to erect a fence of a suitable height (some 1.8m above the height of the decked area) along the side section of the upper decked area. It is considered that once erected the balance between providing a reasonable level of residential amenity to the applicants and occupiers of No.69 would be reached.
- 2.14 From the lower decked area of the application garden, there is a close view over the boundary fence with No.65, onto the seating area that has been created on a terrace in the rear garden of that property. It is also recommended that a 1.8m high boundary fence (as measured from the proposed decked area) should be erected to help mitigate the level of harm - to the extent that there would be a reasonable level of amenity retained for the applicant and the occupiers of No.65.

2.15 In conclusion, this decision is in the balance. In view of the pre-existing contours and garden levels, and the mitigation that could be provided through the erection of additional fencing along sections of the side boundaries of the site, the proposal is considered to be acceptable. Intervisibility would remain between windows and garden areas of adjoining properties and the proposed development, but due to the degree of separation, some intervening fencing and landscaping and the topography of the land, the increase in the levels of harm would not be material or unduly harmful.

3. Conclusion

3.1 The proposed development is located within the garden of the application property and is considered to be ancillary to an existing development/use of the land. The proposal is visible from public vantage points, but not prominent or otherwise intrusive.

3.2 The application site and this section of the village fall within the AONB. The proposed development is seen within the context of the garden and other nearby buildings and does not encroach onto or form part of the wider and more open landscape. As such, the landscape and scenic beauty of the AONB is conserved.

3.3 The proposal is considered, on balance, to be acceptable subject to the erection of fencing (or increasing the height of fencing) along certain sections of the side boundaries of the garden. With this fencing the impact is not considered to be unduly harmful to the extent of warranting a refusal of planning permission, in this case.

g)

Recommendation

I Planning permission be GRANTED with the imposition of the following conditions:

- i) In accordance with the approved plans.
- ii) The use of the building to be used for purposes ancillary to the main dwellinghouse
- iii) Within 3 months, fencing shall be erected at a height of 1.8m along the side boundary with No.69 of the upper deck area and the side boundary with No.65 of the lower deck area and retained as such thereafter.

II Powers be delegated to the Head of Planning, Regeneration and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Vic Hester