

a) **DOV/21/01658 – Erection of a detached outbuilding for ancillary use (retrospective) - Jandi, 58 The Droveaway, St Margaret's Bay**

Reason for report – Called in due to the number of objections (10)

b) **Summary of Recommendation**

Approve planning permission, subject to conditions

c) **Planning Policy and Guidance**

Core Strategy Policies (2010) (CS)

DM1 and DM9

National Planning Policy Framework (NPPF) (2021)

Paragraphs 7, 8, 11, 130, 174, 185

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process however the policies of the draft Plan have little weight and are not considered to materially affect the assessment of this application and the recommendation as set out.

The Kent Design Guide (KDG)

d) **Relevant Planning History**

None relevant

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

St Margaret's Parish Council – No objections

Third Party Representations:

10 objections have been received. Material considerations are summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are not material planning considerations and are not included below.

- Allowing retrospective permission for such a large outbuilding would set a precedent.
- Scale and proximity to the neighbouring boundary.
- Loss of outlook from the neighbouring property.
- Loss of light and overbearing impact.
- Increased noise on neighbouring boundary.
- Incongruous and fails to preserve or enhance the area.
- The building has been erected without planning permission.
- It is 1m from the boundary and 2.5m high and is not permitted development.
- Overdevelopment of the site.

## **1. The Site and the Proposal**

### The Site

- 1.1 The application site comprises a detached single-storey dwelling located on the south side of The Drove way within a residential urban area of St Margaret's Bay. The immediate area is characterised by residential bungalows and chalet style bungalows. There are residential properties on either side of the site and the rear garden of the application property backs onto the rear garden of a residential property that fronts onto Salisbury Road.

### The Proposal

This is a retrospective application for the erection of a detached garden outbuilding for ancillary residential use. The outbuilding is located in the rear garden approx. 1m away from the shared boundary and is clad in painted blue timber with a pitched felt roof above. The building measures 8.45m x 3.9m. The building measures 2.5m to the eaves and 2.79m to the pitch, above ground level.

The primary use of the building is ancillary residential accommodation for the applicant's daughter who has epilepsy, autism and other health issues. There will be no overnight accommodation in the building and it is not annexe accommodation. In support of the application it is stated:

"The Garden Building is primarily for Mr. and Mrs May's daughter who has Epilepsy, Autism and other health issues, the objective behind the installation of this building is to give their daughter her own space and a partial feeling of independence, whilst Mr. and Mrs May are close at hand.

Mr. and Mrs May also foster a young adult man who has severe a learning disability, which makes it even more important to provide extra room where their daughter can have her own additional space and that she has some privacy when friends visit.

There will be no overnight occupation of the building and it is purely for family circumstances

Mr. and Mrs May were under the impression that the structure would fall within permitted development and were unaware that it breached any planning rules and regulations".

## **2. Main Issues**

- 2.1 The main issues for consideration are:

- Principle of the outbuilding
- Design and visual amenity
- Impact on Residential Amenity

### Assessment

The application site is located within the urban area and as such ancillary residential accommodation complies with policy DM1 of the Core Strategy subject to other material planning considerations.

Several objections have been received regard the scale of the outbuilding and proximity to the shared boundary and the impact this cause to neighbour amenity. It is noted that planning permission is required for the outbuilding due to the height (above 2.5m) and proximity (within 2m) to the shared boundary. However, the permitted development rights for residential dwellings are considered to be a material consideration in the determination of this application, and it is important to consider what could be erected under permitted development compared to what has been erected in this instance.

In this instance the outbuilding is only 29cm higher than what would be deemed permitted development which would not be a readily discernible increase in height. The building itself does fall within the height requirements (2.5m) of permitted development, however it has been placed on a raised base which takes the overall height to 2.79m above ground level.

At only 29cm above what would be deemed permitted development it is considered that the outbuilding would not result in any significant adverse neighbour amenity impact such as loss of outlook or light and would not be significantly more overbearing than what would be deemed permitted development. In addition, the outbuilding is located in the rear garden and cannot be readily seen from the public highway and therefore does not result in any significant adverse visual harm to the character of the area. Further, the footprint and scale of the outbuilding is subordinate to the main house and the outbuilding does not take up a significant amount of the garden area.

It is noted that the building has been erected retrospectively. However, it would not be reasonable for the Council to refuse the application or take enforcement action seeking a reduction in the height of the building by 29cm. As set out above the Council must consider what could be built under permitted development and assess whether the increase in height (29cm in this instance) would be significantly more harmful than what could be built under permitted development.

Objectors have also raised concern regarding an increase in noise and disturbance in proximity to the shared boundary. However, the use of the application site has not changed and this section of the rear garden could have been used for typical residential garden activities which would typically generate an element of noise and disturbance associated with the use of the garden.

### **3. Conclusion**

- 3.1 Overall, having regard to what could be built under permitted development in this instance, it is considered that the retrospective outbuilding would not result in any significant adverse harm to neighbouring residential amenities and given the discreet rear location does not result in any significant adverse visual harm. As such, the proposal would comply with Paragraphs 130 of the NPPF and policy DM1 of the CS and is recommended for approval.

### **g) Recommendation**

- I Planning permission BE GIVEN subject to: (i) Approved Plans
- II Powers to be delegated to the Planning and Development Manager to settle any necessary matters in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

Andrew Jolly