
Appeal Decision

Site visit made on 9 January 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/A2280/W/16/3159421
97 City Way, Rochester ME1 2BB

- 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 Paul Stone against the decision of The Medway Council.
 - The application Ref MC/16/2039, dated 14 April 2016, was refused by notice dated 12 July 2016.
 - The development proposed is a 2 bedroom dwelling with accommodation in the roof space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - (a) The character and appearance of the area;
 - (b) The living conditions of future and existing occupiers in relation to external private amenity space; and
 - (c) Whether the proposed development makes adequate provision for over-wintering birds at the North Kent Marshes Special Protection Area (SPA).

Reasons

The character and appearance of the area

3. The area is predominantly residential in character comprising a mix of bungalows, semi-detached two-storey dwellings and terraces set back from the highway behind front gardens and with large rear gardens. The appeal property has a less conventional arrangement to that of surrounding properties in that its associated garden is to the side of the bungalow positioned alongside City Way (A229). Nonetheless, this bungalow with its garden to the side maintains the rhythm of plot sizes and long gardens of the bungalows in the area.
 4. The sub-division of the plot would create two plots of significantly smaller size than those of the bungalows in Haig Avenue and the wider locality. The introduction of a dwelling within the garden area of the existing bungalow
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would be out of keeping with the pattern of development in the locality. Furthermore, the footprints of both the existing and proposed dwelling, together with the creation of driveways within each plot, would create two developments of cramped layout. This would be a significant contrast to the scale and layout of other properties in the surrounding area.

5. In addition, this existing side garden provides a gap between built development and this part of City Way. The loss of the side garden by infilling the open gap and consolidating built development along the City Way road frontage would diminish the appearance of the locality by removing a space that positively contributes to the street scene and visual appearance of this local environment.
6. The design, ridge height, size and scale of the proposed dwelling, and space between existing properties in City Way, taken in their own right, may be considered acceptable. However, this does not overcome the above concerns relating to the character and appearance of the area identified above or justifies the proposed development.
7. The appellant refers me to a planning permission granted at 131 City Way (Council ref 15/4214) in which it is suggested that less space between developments has been accepted by the Council. I observed that this development comprise two-storey semi-detached and detached buildings. This development is positioned at the end of a two-storey terrace. The existing properties in the area are positioned close together. The circumstances of this development are different to that being considered here. The appeal before me relates to a different site and therefore can and should be considered in its own merit.
8. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area. The proposed development would be contrary to Policies H4 and BNE1 of the Medway Local Plan 2003. These seek new residential infill development to provide a clear improvement in the local environment and to respect the appearance and location of buildings, spaces and visual amenity of the surrounding area and be satisfactory in terms of layout and siting, amongst other matters. The proposed development would also be contrary to the aims of paragraphs 17 and 57 of the National Planning Policy Framework (the Framework) that seek to secure high quality design.

The living conditions of future and existing occupiers

9. The sub-division of the plot, as noted above, would result in two smaller plots being created. Although the existing bungalow is of modest size, the existing side garden, whilst large, remains important for use by the occupants of this bungalow as an outdoor amenity space. Such space would normally be used by occupants for sitting out, drying clothes, storing bicycles, general outdoor recreation, and so on. I do not consider that the proposed development would provide adequate space to accommodate such activities either for the existing or proposed dwellings.
10. The appellant has directed me to the Medway Housing Design Standards which suggests that private gardens should have a minimum length of 10m and private open space should be adjacent to the living room or dining room with a minimum width of 1.5m. Indeed at 2.5 the Standards indicate a baseline for private gardens to be a minimum of 7m in length on constrained sites; otherwise 10m will be expected. Whilst the rear private gardens relating to the

existing and proposed dwellings would have a width in excess of 10m, the length of the gardens is extremely limited and would not reflect that required by the Standards. I therefore give little weight to the suggestion that such garden sizes would be appropriate for this proposed development.

11. For these reasons I conclude that the proposal would be harmful to the living conditions of future and existing occupiers in relation to external private amenity space. The proposed development would be contrary to Policy BNE2 of the Medway Local Plan which seeks all development to secure the amenities of its future occupants, and to protect those amenities enjoyed by nearby and adjacent properties, amongst other matters. The proposed development would also be contrary to the aims of paragraph 17 of the Framework that seeks to include private spaces as part of securing high quality design.

Provision for over-wintering birds

12. The appeal proposal falls within the identified zone of influence of the SPA. The Council has set out its requirements for contributions that should be made for necessary mitigation measures, based on work carried out in partnership with North Kent local authorities and endorsed by Natural England. I understand that work is on-going to establish and secure strategic mitigation measures to ensure the necessary protection of the coastal SPA. Whilst these measures are in the process of being developed an interim approach is being applied by the North Kent local authorities to administer both the strategic tariff collection and agreement between local authorities that will deliver the agreed Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM).
13. It is likely, given the proximity to the coast, that the future occupiers of the new dwelling would make use of the North Kent Marshes SPA for recreation purposes. Where development either alone or in combination with other development, as is the case here, would be likely to cause harm to the SPA it is necessary to provide mitigation. In this case a tariff contribution is sought and I consider this to be reasonable and necessary in the interests of wildlife. The Council advises that this contribution would normally be sought through a Unilateral Undertaking. Such an undertaking has been completed and submitted with the appeal and provides the appropriate mechanism to ensure that this necessary tariff would be paid. As such, I am satisfied that the scheme would provide adequate mitigation for likely harm to over-wintering birds in the SPA.
14. For this reason the proposed development would comply with Policy BNE35 of the Medway Local Plan. It would also comply with the aims of paragraphs 109 and 118 of the Framework that seek to conserve and enhance biodiversity and mitigate harmful impacts.

Other Matters

15. The proposal would provide an additional home and use an area of developed land in a sustainable location that would contribute a dwelling within the urban area of Medway. I also acknowledge that no mutual overlooking would be created. I give these benefits some weight. However, these are not sufficient to outweigh the harm that I have identified above.

16. In reaching my decision, I have also considered the concerns raised in respect of vehicles movements and parking in close proximity to Haig Avenue. I note that the Council did not raise highway safety as an issue, and I do not consider highway safety would be compromised or that parking problems would occur.

Conclusions

17. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR