

Appeal Decision

Site visit made on 19 April 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 31 May 2017

Appeal Ref: APP/A2280/W/17/3166385

109 Edwin Road, Rainham, Gillingham, Kent, ME8 0AG

- 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 & Mrs Stuart & Chris Van Cliff against the decision of The Medway Council.
 - The application Ref MC/16/3278, dated 29 July 2016, was refused by notice dated 26 September 2016.
 - The development proposed is construction of a detached bungalow & garage. New crossover, existing crossover enlarged.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the construction of a detached bungalow and garage on (a) the character and appearance of the area; and (b) the living conditions of existing occupiers with particular regard to noise and disturbance.

Reasons

Character and appearance

3. It is apparent that a five year supply of deliverable housing land cannot be identified in the area. There is no dispute between the parties on this issue. Paragraph 49 of the National Planning Policy Framework (The Framework) states that in these circumstances relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development. Where relevant policies are out of date permission should be granted unless the adverse impacts of doing so would outweigh the benefits taking account of the framework as a whole. There is no dispute between parties regarding the sites location within the Medway urban area. As such the scheme would contribute a dwelling to the supply of housing, that would not be isolated, and this does weigh in favour of the proposal.
 4. The appellant submits that policy H9 of the Medway Local Plan (MLP) should not be considered up to date. MLP policy H4 seeks to direct development to urban areas. Whereas policy H9 considers the detailed criteria for 'backland and tandem development'. Therefore it remains relevant for the consideration of matters of character and appearance.
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5. Edwin Road contains a mix of detached and semi-detached dwellings that front the road. I understand that in some locations new dwellings have been added into frontage gaps and that some properties have substantial rear outbuildings.¹ Nevertheless the predominant character is frontage dwellings with deep plots. The site would be formed from the rear garden area of No 109 Edwin Road. Therefore I consider that the addition of a dwelling to the rear of No 109 would not have any physical or visual affinity with the strong frontage development along this stretch of Edwin Road.
6. I therefore conclude that the proposal would harm the character and appearance of the area. It would be in conflict with MLP Policies H4, H9 and BNE1 which amongst other things seek well designed new development that maintains the character of the area and respects the street scene and surrounding area.

Living conditions

7. No 111 is a substantial detached dwelling. It has side facing windows adjacent to the existing access and parking area for 109. It also has rear facing dormer windows and a substantial garden outbuilding. At present the plans show the access for No 109 taken from Edwin Road to a parking area contained at the front of the site. The area on the common boundary with No 111 is a grassed area. The access to serve the new dwelling would run along the common boundary with No 111. It would introduce an access and use for this dwelling with associated visitors, deliveries and general daily movements. This would be distinct from the use of an existing residential garden, associated outbuildings, pedestrian movement and access to the electricity substation.
8. The use of the new access would give rise to unacceptable levels of noise and disturbance to existing occupiers compared with the existing arrangement, even taking into account the presence of a similar relationship with No 107 and that where possible trees and shrubs would be retained. This could be particularly noticeable and intrusive during summer months when the garden areas are likely to be used more intensively and windows left open.
9. I appreciate that there are no issues regarding loss of privacy to existing occupiers, that the garden spaces provided would be acceptable. However, none of these matters alters my conclusion regarding noise and disturbance.
10. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of existing dwellings, with particular regard to noise and disturbance. It would be in conflict with LP policy BNE2 in so far as it seeks to protect those amenities enjoyed by nearby and adjacent properties and the Framework which seeks to ensure a good standard of amenity for all existing occupiers of land and buildings.

Other matters

11. The appellant is concerned about the advice offered pre application and the content of the officer's report. Nonetheless my considerations are based solely on the planning merits of the case before me.
12. The site is within 6km of the North Kent Marshes SPA/Ramsar site. The Council has indicated that the scheme as submitted should provide measures

¹ LPA Refs 08/0285; 13/2986; 13/1948; 15/3083

to avoid or mitigate potential adverse effects from recreational use of the SPA by future residents. The appellant has submitted a unilateral undertaking to secure the required mitigation.

Conclusion

13. The location of the proposal would not conflict with the MLP settlement policies and would add to the delivery of a wide choice and quality of homes. Further there is no dispute between the parties regarding the location of the site within reasonable access to local community facilities and employment by public transport and that it is sustainable, that there would be some limited economic benefits to local businesses and no harm to ecology or the historic environment. There is nothing before me that would lead me to a different conclusion and I appreciate that some local residents support the scheme.
14. However, the appeal proposal would lead to significant and demonstrable harm to the character and appearance of the area and the living conditions of existing occupiers when assessed against MLP policies, including BNE1, BNE2, H4 and H9 and the policies of the Framework. Consequently the benefits of the proposal would not outweigh the harm identified.
15. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR