



Appeal Decision

Site visit made on 18 July, 2017

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

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

Decision date: 3rd August, 2017

Appeal Ref: APP/U2235/W/17/3173060

67 Calder Road, Maidstone, ME14 2QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J White against Maidstone Borough Council.
 - The application Ref: 17/500401/FULL is dated 25 January, 2017.
 - The development proposed is a two-bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for a two-bedroom bungalow at 67 Calder Road, Maidstone, ME14 2QG in accordance with the terms of the application, Ref: 17/500401/FULL dated 25 January, 2017 subject to the schedule of conditions to this decision.

Preliminary Matters

2. The Supreme Court handed down judgement on the *Suffolk Coastal District Council v Hopkins Homes Ltd and SSLG, Richborough Estates Partnership LLP and SSLG v Cheshire East Borough Council* case on 10 May, 2017. Having regard to the judgement, I do not consider that it has any direct implications for the cases of the parties in this appeal.
3. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted in the Council's statement, and its putative reason for refusal, which I have treated as the basis of the decision the Council would have made, had it been empowered to do so. The Council is principally concerned by the effect that the proposed development would have on the character of the area and the amenity of future occupiers. I have drawn on the Council's concerns, together with other evidence before me, to inform the main issues in this appeal.

Main Issues

4. The main issues are the effect of the proposed development on i) the character and appearance of the area and ii) the living conditions of future occupiers, with particular regard to outlook and private outdoor space.

Reasons

5. The appeal site consists of a sunken yard at the rear of 67 Calder Road (No 67), which is accessed via substantial gates from Stanhope Close, with which

the site is roughly at grade. The yard area is wholly hard-surfaced. Towards the rear of the site is a large garage with a commercial-type metal roller shutter door. The site is currently vacant and its appearance, which is not akin to a residential garden, suggests it may previously have been in some form of commercial use. Part of the rear garden of No 67 currently extends above the garage in the form of a raised deck.

6. It is proposed to remove the garage structure and erect a two-bedroom detached bungalow on the site, together with a garden area and parking provision, accessed from Stanhope Close.

Character and appearance

7. The area is predominantly residential in character, featuring a mix of mainly two-storey terraced and semi-detached houses within the urban extent of Maidstone. Properties nearby are varied in style and materials and a multitude of extensions and alterations add to the mixed street scene. Older estate type housing is occasionally interspersed by examples of more recent development, and some non-residential development such as a local convenience store.
8. Stanhope Close is set at a notably lower level than Calder Road. As a result of this, the limited height of the proposed bungalow, the existing houses fronting Calder Road, and boundary fences between the site and Calder Road, the development would be largely screened from Calder Road and so have no significant effect on the character and appearance of that street.
9. From Stanhope Close, the site is largely screened by the existing gates, which look similar to a close boarded fence. It sits among a row of rear gardens where, aside from some fences, garages and sheds, there is little built form. This, together with the grassed area on the opposite side of the road, gives a generally open character to Stanhope Close and partial views of the rear elevations of nearby houses in Calder Road.
10. The new bungalow would be modest in scale, particularly in height, and as a result it would appear subservient to the larger two-storey dwellings set above it in Calder Road. While the bungalow would be the only residential building set in this part of the road, its modest scale would ensure that it would not be unduly prominent in the street scene and there would be ample separation between it and the terraced building opposite. Furthermore, the single storey nature of the dwelling would not be significantly incongruous with its surroundings where there are a number of single storey structures including garages and a pair of bungalows at 1a and 1b Stanhope Close, which are visible from the front of the appeal site.
11. The garden area provided would be relatively modest. However, there would also be an open area of parking at the front of the bungalow, which would be set in by a small but significant degree from the side boundaries. The new dwelling would therefore not appear significantly cramped.
12. Moreover, the character and appearance of the existing site is at odds with its immediate surroundings. This would be particularly visually apparent when the large access gates are open, allowing views into the site from Stanhope Close. I consider that the residential character of the proposed development would be somewhat more consistent with the prevailing character of the area than the existing arrangement. While the bungalow would be detached, the prevailing

pattern of development nearby is not uniform, and the various additions and alterations to built-form add to the local mix. The addition of one modest bungalow, in this relatively unobtrusive location, would therefore not significantly affect the overall character and appearance of the area.

13. For these reasons, I conclude that the proposed development would not harm the character and appearance of the area. It would therefore be consistent with the relevant requirements of Paragraphs 17, 56, 57 and 64 of the National Planning Policy Framework (the Framework), which among other things collectively seek to secure a good standard of design.

Living conditions

14. The bungalow would have two-bedrooms and it is possible that it would be occupied by a household including young children. While the rear garden area provided would be modest compared to many other gardens in the area, it would provide a private outdoor space directly accessible from the dwelling. The appellant states that the garden would be approximately 3.9m deep by 11m wide, measurements that are not expressly disputed by the Council. While not large, I consider that this space would be sufficient to provide some outdoor play opportunity for young children and a satisfactory level of outdoor space for most potential occupiers.
15. The two-bedrooms would be positioned at the rear of the bungalow, each with one window as its sole source of outlook and natural light, facing over the rear garden. I note that the outlook would be towards the boundary fence with Nos 67 and 71 Calder Road, and that the extent of the outlook would be limited by the depth of the proposed rear garden. However, I do not consider that the outlook in this case would be so restricted as to significantly harm the living conditions experienced by the occupiers of the new dwelling. Furthermore, while there would be potential for some overlooking of the site from Nos 67 and 71 Calder Road, there would be an adequate degree of separation between the dwellings, and the effects would be further mitigated by the boundary fencing and the relatively tucked-down position of the bungalow.
16. For these reasons, I conclude that the proposed development would not harm the living conditions of future occupiers, with particular regard to outlook and private outdoor space. It would therefore be generally consistent with the relevant requirements of Paragraph 17 of the Framework, which among other things seeks to secure a good standard of amenity for all existing and future occupiers of land and buildings. It would also be generally consistent with Paragraphs 56, 57 and 64 of the Framework, which collectively seek to secure a good standard of design.

Other Matters

17. The Council considers that the site does not constitute previously developed land (PDL). The Framework's definition of PDL explicitly excludes land in built-up areas such as private residential gardens. While it is apparent that the site lies within a built-up area, there is insufficient evidence before me upon which to determine whether the planning use of the site constitutes a private residential garden and falls within the definition of PDL. Nonetheless, I have determined the appeal on the basis of the evidence and merits of the case before me and my findings in relation to the main issues would not be altered either way.

18. The Council has also referred to Framework Paragraph 53, which advises that local planning authorities should consider the case for setting out policies to resist the inappropriate development of residential gardens. No such policy has been referred to in the Council's putative reason for refusal. Reference has nonetheless been made in the Council's statement to Policy DM10 of its emerging Local Plan, which is at an advanced stage of preparation. I am advised that, among other things, this emerging policy seeks to ensure that the development of residential garden land in urban areas would not adversely impact upon the character of the area or the residential amenity of neighbours. Given that no significant harm is identified in relation to the character and appearance of the area or living conditions, I consider that the development would not be inconsistent with the emerging policy in this regard.
19. My attention has been drawn to a recent appeal decision relating to the site¹. I have carefully considered the Inspector's findings in dismissing that appeal. However, it is clear that her decision related to a proposed two-storey building on the site and I consider that the single storey proposal before me differs significantly from the previous scheme.
20. I conclude that none of the matters covered in this section of my decision adds materially to the case for or against the appeal.

Conditions

21. I have considered the Council's suggested list of conditions. In addition to the standard time for commencement, I have imposed a condition specifying the approved plans as this provides certainty. Conditions relating to materials and car parking are necessary in the interests of the character and appearance of the area and to ensure the satisfactory operation of the completed development. Having regard to the Planning Practice Guidance, I have not included a pre-commencement requirement in relation to details of materials as it has not been justified that this requirement is so fundamental to the development that without a conditions precedent approach it would have been necessary to refuse permission.

Conclusion

22. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR

¹ APP/U2235/W/16/3156684

SCHEDULE OF CONDITIONS

- 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: 16064JW-PP-01; 16064JW-PP-02; 16064JW-PP-03; 16064JW-PP-04; 16064JW-PP-05; 16064JW-PP-06; 16064JW-PP-07; 16064JW-PP-08; and 16064JW-PP-09.
- 3) No development above slab level shall commence until written details and samples of the materials to be used in the construction of the external surfaces of the extension 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 and samples.
- 4) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing 16064JW-PP-07 for cars to be parked and that space shall thereafter be kept available at all times for that purpose.