
Appeal Decision

Site visit made on 7 August 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 8 September 2019

Appeal Ref: APP/U2235/W/17/3175299
37 Albion Place, Maidstone ME14 5DZ

- 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 outline planning permission.
 - The appeal is made by Mr David Marks, DaVinci against Maidstone Borough Council.
 - The application Ref 16/507870/OUT, is dated 9 November 2016.
 - The development proposed is a 3 storey building containing 3 2-bed flats.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline with approval sought for access, appearance, layout and scale. Landscaping is reserved for later determination. The appeal has been considered on this basis.
3. Although the Council failed to determine the application, the appeal statement submitted makes clear their objection to the proposal.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of Nos 37 and 39 Albion Place, and potentially the occupiers of No 35, in relation to outlook.

Reasons

Living conditions

5. The proposal is for a three-storey, flat roofed building to contain three flats on an area of hardstanding currently used for parking to the rear of Nos 35-39 Albion Place and their small back yards. These comprise three Georgian/early Victorian terraced properties, three storeys high, which front onto Albion Place. The appeal site to the rear has road frontage onto Queen Anne Road with other parking spaces on each side and a car park opposite.
6. Apart from a projecting bay to the front facing Queen Anne Road the building would have a rectangular footprint and be orientated lengthways across the site only about 12 m from the main rear elevation of Nos 35-39¹. The building

¹ Although Nos 35-39 have projecting wings to the rear it is understood these only contain bathrooms which would not be adversely affected by the proposal.

would be about 11.4 m long and 8.4 m high, and at such close quarters would appear unduly overbearing in the outlook from the rear facing windows and back yards of Nos 35-39. Two of these, Nos 37 and 39, are currently in residential use and although No 35 is currently an office this could also revert to residential use in due course. The design details proposed for the elevation to enliven the outlook would not overcome this concern.

7. The appellant argues that the loss of amenity to the occupiers of Nos 35-39 would be de minimis compared to the existing planning permission for a similar flat roofed three-storey building the same distance away behind No 37². However, the permitted scheme is for a building about 4.95 m long compared to the current proposal which would be about 11.4 m long. The additional length of the building in combination with its height would result in an undue sense of enclosure for the occupiers of the buildings concerned.
8. The proposal would therefore cause significant harm to the living conditions of the occupiers of Nos 37 and 39 Albion Place, and potentially the occupiers of No 35, in relation to outlook. This would be contrary to paragraph 17 of the National Planning Policy Framework which requires a good standard of amenity for all occupants of land and buildings.
9. The Council explain that the existing planning permission was only granted in recognition of an unusually isolated two-storey building with pitched roof which previously stood on the site behind No 37. This already blocked part of the outlook from Nos 35-39. Whilst the proposal may include improved design details the precedent of the existing permission does not justify the current proposal for a larger building on the site.

Conclusion

10. The proposal would provide three dwellings which would help meet the housing needs of the area and have social and economic benefits. However, having regard to the environmental objections set out above, the appeal should be dismissed.

David Reed

INSPECTOR

² Ref 14/504451