



Appeal Decision

Site visit made on 20 June 2019

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 25 July 2019

Appeal Ref: APP/V2255/W/19/3225737

17 Musgrave Road, Sittingbourne, ME10 2EJ

- 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 Hutchinson Properties (Mr Hutchinson) against the decision of Swale Borough Council.
 - The application Ref 18/506592/FULL, dated 18 December 2018, was refused by notice dated 1 March 2019.
 - The development proposed is erection of two storey, three bedroom house with new access and car and cycle parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hutchinson Properties (Mr Hutchinson) against Swale Borough Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the provision of a dwelling on (a) the character and appearance of the area and (b) the living conditions of the occupiers of existing dwellings 16 and 17 Musgrave Road, with particular regard to noise and disturbance.

Reasons

Character and appearance

4. I understand that the site is close to industrial buildings which are to its side and rear. Nonetheless Musgrave Road itself is typified by two storey dwellings, in terraced groups, which front the road. The dwellings form a strong frontage to the street scene. They generally have a simple form and appearance with a gable roof.
5. The new dwelling would be located at the end of the road in an area between No 16 and No 17, which currently forms part of the garden area of No 17. The footprint of the new dwelling would be detached and wider than those around it. At ground floor it would be 'L' shaped. As a result, it would have a wide roof treated with a hip at one end and a gable at the other. The appellant submits that there would only be partial or glimpsed views of the scheme against a backdrop of industrial buildings. Furthermore, that the site is not important in the wider setting of the area. Nevertheless, even if appropriate

materials were used the overall design and appearance of the dwelling would be a stark contrast to the prevailing style and would appear incongruous.

6. I therefore conclude that the introduction of a dwelling in this location would have a harmful effect on the character and appearance of the area. It would be in conflict with policy DM14 of the Swale Borough Local Plan (LP) which amongst other things requires new development to reflect the positive features of the locality and be well sited and of a scale and design appropriate to the location.

Living conditions of existing occupiers

7. The Council's decision specifically refers to the creation of an access point between No 16 and No 17. More specifically that it would lead to noise and disturbance that would impact on the living conditions of existing occupiers. The appellant submits that the existing dwellings already produce noise and that the access would be for the needs of the scheme only. Nonetheless, it would introduce a new dwelling into an existing garden area. As such, whilst acknowledging the existing situation, I have carefully considered the changes that would result from the appeal scheme.
8. The layout plans show that the boundary between the site and No 16 would be treated with a 2m high brick wall. No 16 has side facing windows and the shared boundary would be with its garden area. The layout would introduce two parking spaces for the new dwelling along a substantial portion of the common boundary. Vehicles would access from the road, past the side of No 16 and then along its boundary. As such the majority of the garden area for this dwelling area would be exposed to vehicular movements and the associated noise and disturbance.
9. No 17 would also have a 2m wall on the new boundary that would divide it from the appeal site. This dwelling has windows that would face directly onto the new access point. A new parking area would be provided for the dwelling and the plans show an area for turning to serve the spaces for no 17 and 17A. Therefore, vehicles entering for both dwellings would drive directly past the side elevation of No 17. In addition, even if vehicles enter and exit in forward gear, there would be some reversing and it is probable that vehicles reversing and turning would be undertaking these manoeuvres in the area close to this dwelling and its garden area. This would subject occupiers to the noise and disturbance from the movements.
10. The appellant submits that permitted development would allow for a new access point without planning permission. However, a new dwelling is distinct from this and would not be permitted development. As such I have considered the scheme before me in its totality on its merits. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers with particular regard to noise and disturbance. The proposal would therefore be in conflict with LP policy DM14 which amongst other things sets out that new development should cause no significant harm to amenity and be well sited.

Other matters

11. I appreciate that the dwelling could be positioned so that the main windows face the commercial buildings and that suitably sized garden areas would be

created. However, this does not alter my findings on character and appearance or noise and disturbance.

12. The site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA). Natural England have identified that a new dwelling would increase recreational use. As such the proposal has potential to affect the site's features of interest. The appellant has agreed in principle to pay a mitigation contribution. However, I have no mechanism before me that would secure it and this could not be dealt with by condition as the appellant suggests. A condition would not meet the tests set out in the Framework or Planning Practice Guidance. As I am dismissing the appeal for other reasons I have not pursued this issue further.
13. I note that the appeal scheme would provide an additional dwelling. In addition, I understand that this part of the borough is in general a sustainable location for new housing and the proposed dwelling would contribute to the range of housing choice. However, none of these matters alters or outweighs my conclusions on the determining issues in the appeal.
14. The appellant submits that the Council does not have a five-year supply of deliverable housing. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. However, even if I were to conclude relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission that I have identified would significantly and demonstrably outweigh the benefit of the provision of a dwelling in this case.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR