



Appeal Decision

Site visit made on 20 August 2019

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/A2280/D/19/3227521

193 Princes Avenue, Walderslade, Chatham, ME5 8AR

- 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 M Butler against the decision of Medway Council.
 - The application Ref MC/18/3483, dated 3 August 2018, was refused by notice dated 4 February 2019.
 - The development proposed is the construction of garden building.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of garden building at 193 Princes Avenue, Walderslade, Chatham, ME5 8AR in accordance with the terms of the application, Ref MC/18/3483, dated 3 August 2018, subject to the following condition:
 - 1) The development hereby permitted shall be constructed and retained in accordance with the following approved plans: PA/18/038/001 Rev A.

Procedural Matter

2. The garden building has been erected and is nearing completion. I am therefore considering this appeal retrospectively.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupants of 191 Princes Avenue and 15 Downland Walk with particular reference to privacy;
 - The effect of the proposal on protected trees.

Reasons

Character and appearance

4. The rear garden of 193 Princes Avenue slopes up steeply from the back of the house and the garden room is therefore located on higher ground. It is single storey with a shallow dual pitched roof and has been partly constructed on stilted supports due to the significant changes in levels. A balcony is attached

to the front of the building and is accessed via an external staircase to the side of the building.

5. On my site visit I observed that land levels continue to rise beyond the rear garden boundary which is formed by a high and rather unsightly concrete retaining wall structure. Due to its siting on rising ground, glimpses of the garden room are obtainable at certain points between the buildings along Princes Avenue and also from Downland Walk. In addition, the building can be seen from high ground on the other side of the valley, in Scotby Avenue. However, whilst the garden room can clearly be seen from these vantage points, it is nonetheless viewed in conjunction with the high retaining wall beyond it, and the fences and residential properties that sit above it, which are far more prominent in the street scene and local landscape due to their size and position of higher ground.
6. Whilst relatively large, the garden room retains the appearance of a subordinate ancillary building and given its context as described above, is not an unduly dominant feature in the street scene or wider area. Accordingly, the proposal does not have a harmful effect on the character and appearance of the area. The proposal therefore complies with Policy BNE1 of the Medway Local Plan 2003 (LP) which requires development to be appropriate in relation to the character, appearance and functioning of the built and natural environment and to respect the visual amenity of the surrounding area. It would also comply with the National Planning Policy Framework 2019 (the Framework) insofar as it aims to achieve well-designed places.

Living Conditions

7. The adjacent property, 191 Princes Avenue is predominantly single storey other than for a roof extension, providing some accommodation at first floor level. No 191 has a steeply sloping rear garden which is tiered, with fencing running along the boundary with No 193. There is also a garage and outbuilding in the garden of No 191, close to the boundary with the appeal site.
8. The balcony would allow some views across No 191. However, due to the significant difference in levels, the tiered nature of the garden and the presence of the boundary treatment and outbuildings, views into the private garden area of No 191 from the balcony are limited. On my site visit I observed that no clear views into the ground floor accommodation of No 191 are obtainable from the balcony due to the changes in level and intervening features. The roof extension to No 191 Princes Avenue can be seen from the garden room balcony. However given the significant intervening distance between the balcony and this first floor window, together with the oblique angle, I am satisfied that no loss of privacy would occur and that the living conditions of the occupants of No 191 Princes Avenue would not be materially harmed by the proposal.
9. The garden room is accessed via a small external staircase which is set in from the side boundary of the site with 15 Downland Walk. I acknowledge that some views are obtainable from the staircase into the side and rear garden of 15 Downland Walk, although these views are to a certain extent screened by the holly tree that is positioned between the garden room and the side boundary. The glass doors on the flank elevation of the garden room are obscurely glazed and are unlikely to give rise to any material overlooking of properties in Downland Walk. The staircase merely provides access to the building, rather

than leading to a balcony or other significant seating space, and as such is unlikely to be intensively used. Having regard to this and the distance the staircase is located away from the side boundary, I conclude that the proposal would not lead to any significant loss of privacy to the occupants of No 15 in this regard.

10. With regard to views from the balcony into the side / rear garden of 15 Downland Walk, the application drawings detail that a high opaque privacy screen will be provided on the side of the balcony closest to the boundary with No 15. Whilst this was not in place at the time of my site visit, I am satisfied that the provision of this privacy screen in accordance with the drawings will adequately protect the privacy of the occupants of 15 Downland Walk.
11. I therefore find that the proposal would not have a significantly harmful effect on the living conditions of the occupants of 191 Princes Avenue or 15 Downland Walk with particular reference to privacy. The proposal therefore complies with Policy BNE2 of the LP which requires development to protect those amenities enjoyed by nearby and adjacent properties. It also complies with the Framework which seeks a high standard of amenity of existing and future users.

Trees

12. There are a number of trees along the boundary of the site with 15 Downland Walk which are protected by an area Tree Preservation Order. The closest of these to the garden building is a common holly which the submitted tree survey categorises as a low 'C' category tree (T8). Given the limited RPA radius of this tree, and the siting and stilted nature of the garden room construction, it is in my view, unlikely that the garden building would adversely affect the health and longevity of this tree.
13. On my site visit I observed that the Whitebeam (T7), also a category 'C' tree, included in the tree survey has been removed other than for part of the trunk. The appellant states that the tree was removed following damage during incremental weather conditions. I note the appellant's willingness to replace this tree, however this is a matter to be resolved between the parties.
14. In conclusion on this issue, I am satisfied that the garden room would not have an adverse effect on protected trees. Accordingly, there would be no conflict with Policy BNE43 of the LP which seeks to retain trees that provide a valuable contribution to local character. There would also be no conflict with the Framework in this respect.

Other Matters

15. With regard to the provision of a new 2m fence along the boundary with 15 Downland Walk, this is a matter to be resolved between the appellant and the adjacent landowner.
16. Notwithstanding the difference in levels, given the distance the garden room is set in from the side boundary of the site and in the absence of any substantive evidence, I do not consider that the proposal will result in a significant level of overshadowing to the neighbouring garden.
17. With regard to third party comments with regard to external lighting and noise, I have no substantive evidence before me to suggest that the proposal will

result in unacceptable levels of light or noise disturbance. Accordingly, I attach only little weight to this matter.

Conditions

18. I have imposed a condition requiring the development to be constructed and retained in accordance with the approved plans for clarity and to ensure an acceptable form of development.

Conclusion

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

J Davis

INSPECTOR