



Appeal Decision

Site visit made on 17 September 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/A2280/D/19/3231503

27 Lyndhurst Avenue, Rainham, Gillingham ME8 0HE

- 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 Stephen Greensted against the decision of The Medway Council.
 - The application Ref MC/19/0289, dated 2 February 2019, was refused by notice dated 12 April 2019.
 - The development proposed is construction of a part two storey part single storey extension with window to side on first floor together with dormer to rear and roof lights to front, single storey extension to side and rear and porch to front, together with fencing to rear and side, landscaping and vehicle hardstanding and crossover to front. Demolition of garage to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development shown on the Council's decision notice and the appellant's appeal form in the banner heading because it is more precise than the description shown on the planning application form. I have, however, removed the 'retrospective' wording as this is not a description of development.
3. The Council has previously granted conditional planning permission in December 2018 for development at the appeal property (Ref MC/18/2926), including a 2 storey side extension, single storey front, side and rear extensions, vehicle hardstanding and a new crossover to the front. At my site visit I observed that construction works have been carried out to the property, which includes: 2 storey side extension; single storey front, side and rear extensions; levelling of rear garden with patio and lawn; new boundary fences; hard-standing in the front garden and new vehicular crossover.
4. The proposed development shown on the plans for the current appeal is different to what has been constructed at the appeal site. In particular, the proposed hip-to-gable roof extension and the proposed rear dormer shown on the plans have not been constructed. Furthermore, at my site visit I observed that the new boundary fence adjoining Brockenhurst Close is around 2m high, which reduces in height to about 1m to the front of the dwelling. However, the plans show that the section of the proposed fence to the front of the dwelling would be much taller than 1m. I have therefore determined the appeal on the

basis of the proposed development shown on the plans rather than what has been constructed at the site.

Main Issues

5. The main issues are the effect of the proposed development on (i) the character and appearance of the dwelling and the surrounding area; and (ii) highway safety.

Reasons

Character and appearance

6. The appeal property is a 2 storey semi-detached dwelling, which is located in an established residential area. Lyndhurst Avenue predominantly consists of semi-detached houses that are similar in form, scale and appearance. Most properties in the street have hipped roof forms and a balanced street frontage as a result of the use of symmetry in the design of the original semi-detached buildings. The semi-detached pair comprising Nos 25 and 27 Lyndhurst Avenue is designed with a symmetrical hipped main roof. The matching hipped roof forms of the main roof and the recently constructed 2 storey side extension provides a harmonious appearance to No 27 when viewed from the street.
7. The proposed hip-to-gable roof extension would add significant bulk to the main roof, which would unbalance the symmetrical hipped roof form of the semi-detached building comprising Nos 25 and 27. Furthermore, the provision of different roof forms for the main roof and the 2 storey side extension would create an incoherent and disjointed appearance in the street scene.
8. The proposed rear dormer would have a boxy appearance and its excessive width and height would be disproportionate to the size of the original roof. The proposed rear dormer would therefore fail to respect the scale, form and proportions of the original roof. It would appear dominant on the rear elevation of the dwelling and would be clearly visible in the street from Brockenhurst Close.
9. My attention has been drawn to other roof extensions in the area. I observed hip-to-gable roof extensions at nearby properties, including Nos 12, 19 and 20 Lyndhurst Avenue, which has created a lop-sided appearance to the semi-detached buildings as a result of one half of the semi-detached pair having a hipped roof and the other half having a gable. There are no details of the planning history of the neighbouring properties before me. Nevertheless, the fact that apparently similar roof extensions may have been permitted is not a reason, on its own, to allow unacceptable development. I have considered the appeal scheme on its own individual planning merits.
10. Turning now to the effect of the proposed boundary fence on the character and appearance of the area. The front gardens of properties in the locality have low boundary treatments, which imparts a feeling of spaciousness in the street scene. Whilst corner properties, including the neighbouring property at No 29 Lyndhurst Avenue, have taller timber fences on the side boundary adjoining the street, they generally have low boundary treatments to the front of the houses.
11. In respect of the appeal scheme, the part of the proposed boundary fence to the side/rear of the dwelling would have a height and appearance that would be comparable to the boundary treatments of other corner properties in the

area, including No 29. However, the section of the proposed fence that would extend to the front of the dwelling would be taller than most front walls and fences in the vicinity of the appeal site. The proposed boundary fence would appear visually intrusive in the street scene due to its height and its prominent position adjacent to the junction of Lyndhurst Avenue and Brockenhurst Close. Furthermore, it would restrict views around the road junction and erode the spacious character of the area.

12. The appellant has submitted photographs of other boundary fences in the area. The examples at Nos 29 and 65 Lyndhurst Avenue show that whilst these corner properties have tall side fences to enclose the rear gardens, the boundary treatment to the front of the dwellings mainly consists of low walls, which provides openness around the road junctions. The other examples provided are not directly comparable to the character and appearance of the street scene in Lyndhurst Avenue.
13. The excavation of the rear garden would create levelled ground which would be lower than the level of Brockenhurst Close. Retaining walls would extend above the lowered land level with timber fences positioned above. The difference in land levels would not be particularly noticeable from outside the appeal site and therefore I find that this aspect of the appeal scheme would not be harmful to the character and appearance of the area. The proposed single storey rear extension would integrate satisfactorily with the dwelling due to its modest height. Furthermore, the proposed single storey front/side extension would extend a small distance to the front of the dwelling and therefore it would not appear unduly prominent in the street scene. Although I have not found harm in these respects it does not overcome the harm that I have found.
14. For the above reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the dwelling and the surrounding area. The proposal would therefore be contrary to saved Policy BNE1 of the Medway Local Plan 2003 and paragraph 127 of the National Planning Policy Framework, which, amongst other things, seeks design of development that is appropriate in relation to the character and appearance of the built environment.

Highway safety

15. The proposed boundary fence would run along the length of the driveway of No 62 Brockenhurst Close at a height of about 2m. Therefore, it would block drivers' visibility from the driveway of No 62 towards Brockenhurst Close. It would be difficult for anyone leaving the driveway in a forwards direction to have a full view of the pavement until after the bonnet of the car has left the driveway and manoeuvred onto the pavement. It would be even more difficult to see the pavement if reversing off the drive. I therefore consider that this would be an unacceptable risk to the safety of pedestrians, especially, small children.
16. The appellant has submitted photographs of properties which have timber fences adjacent to vehicular crossovers. However, no details of the planning history of these properties are before me. Nevertheless, this would not justify the aforementioned risk to the safety of pedestrians and I have determined the appeal scheme on its individual planning merits.

17. I therefore conclude that the proposed boundary fence would significantly harm highway safety. The development would therefore conflict with saved Policies T1 and T3 of the Medway Local Plan 2003, which, amongst other things, aim to limit the risk of road traffic accidents and provide a safe pedestrian environment. The proposed development would also be contrary to paragraph 109 of the National Planning Policy Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

18. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
19. The appellant's statement comments that the levelled rear garden is necessary to allow his registered disabled relative to safely use the garden. I find that this aspect of the development is acceptable, however the development as a whole would cause significant harm to highway safety and the character and appearance of the dwelling and the surrounding area. A refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that harm to highway safety and the character and appearance of the dwelling and the surrounding area would be avoided. Whilst I acknowledge the personal circumstances of the appellant and his relative, I conclude that this is not a matter that outweighs the harm that would be caused by the proposal in respect of my conclusions on the main issues.
20. I have had regard to the concerns raised by the occupiers of neighbouring properties, which, in addition to the above matters, relate to overlooking from the proposed development into No 29 Lyndhurst Avenue and No 62 Brockenhurst Close; increased parking pressure; and the impact of the removal of soil on the structural integrity of the driveway at No 62.
21. The proposed development would not cause a significant loss of privacy to the occupiers of No 29 and No 62 due to the sizeable distances that would be maintained to the habitable windows and gardens of the neighbouring properties. The site is located in an urban area where a degree of overlooking is to be expected. The proposed development would provide on-site parking spaces to the front and so it would not cause a significant increase in parking pressure in the surrounding area. There is no evidence before me to show that the proposed development would impact the structural integrity of the driveway at No. 62.

Conclusion

22. For the above reasons, and having had regard to all other matters, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR