



Appeal Decision

Site visit made on 9 December 2019 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Appeal Ref: APP/A2280/D/19/3238232

10 Edwin Road, Rainham, Gillingham ME8 0AA

- The appeal is made under section 78 of the Town Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Y Uppal against the decision of Medway Council.
 - The application Ref MC/19/1212 dated 9 May 2019 was refused by notice dated 3 July 2019.
 - The proposed development is the removal of existing first floor and construction of new first floor extension.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of 12 Edwin Road, with particular regard to outlook; and
 - The effect of the proposed development on the living conditions of the occupiers of 8 Edwin Road, with particular regard to outlook and privacy.

Reasons

4. The appeal site accommodates a modest detached gable roof chalet style bungalow with three dormers and is located on the western side of Edwin Road. The neighbouring properties No.8 and No.12 are larger two storey houses and there are sizeable gaps in-between these and the appeal property. All three properties contain large spacious gardens. The rear of the dwelling consists of single storey built forms that stretch a considerable distance into the rear garden compared to the built form at the neighbouring properties to either side. Due to the prevailing slope of Edwin Road, No.10 sits considerably higher than No.8.
5. The proposed development would replace the existing first floor accommodation within the roofspace, with a larger first floor level with a

pitched roof on top. It would extend further back into the site than the existing roofspace and be above the majority of the ground floor accommodation.

8 Edwin Road

6. The proposed development, by virtue of the fact that it would effectively add an extra storey to the house, be positioned on the boundary with 8 Edwin Road and would extend further along this boundary, and at a greater height, than the existing dwelling, would have a dominating and overbearing impact when seen from the garden of No.8. This is further exacerbated by the land level difference. Although there are views from the rear garden of No.8 to other two storey properties nearby, these properties, are a greater distance from the appeal site and differ in scale so do not harm the outlook compared to that of the proposed development.
7. The windows of the proposal that would serve the dining area on the northern elevation, would provide direct views over the patio area of No.8 and some limited views into the ground floor and first floor rear windows of No.8. Although there are various windows that already face towards the garden and property of No.8, particularly one serving a utility room, the impact on the privacy of the occupiers of No.8 would be worsened by virtue of a likely higher intensification of use attributed to a dining area compared to a utility room.
8. The appellant's proposed condition of non-opening and obscured glazed windows could overcome this harm. However, I have taken into account the Planning Practice Guidance for the use of conditions and I do not find the proposed condition to be reasonable as windows of this nature should not serve a habitable space such as a dining area.
9. As such, the proposal would likely result in an unacceptable degree of overlooking, impacting the privacy of the adjoining occupiers of No.8. It would further be oppressive and would harm the outlook from the garden at No.8. The development would therefore fail to accord with Policy BNE2 of the Medway Local Plan, Adopted May 2003, (Local Plan) which seeks to protect the amenities enjoyed by nearby properties, including privacy, and Paragraph 127f of the National Planning Policy Framework (Framework) which echoes this.

12 Edwin Road

10. The windows at the rear elevation of No.12, which appeared to be habitable, face their spacious rear garden. This, combined with the proposed development's set-in from the boundary of No.12 and resulting sizeable gap in-between both houses, would mean the development would not be overbearing when viewed from these windows. I also witnessed one window on the first floor north elevation of No.12, which also appeared to be a habitable room. Whilst this window would face the southern elevation of the proposed development, I find the significant gap in between the two properties, the similar land levels and similar two storey scales of both buildings, would mean the view is not visually intrusive.
11. For these reasons, the proposed development would not harm the outlook of the occupiers of 12 Edwin Road. I therefore do not find any conflict with Policy BNE2 of the Local Plan and Paragraph 127f of the Framework, as described above.

Recommendation and Conclusion

12. Although the proposed development would not harm the outlook for the occupiers of 12 Edwin Road, this does not outweigh the harm caused to the occupiers of 8 Edwin Road with regards to outlook and privacy. As such, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mariam Noorgat

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR