



Appeal Decision

Site visit made on 6 January 2020 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2020

Appeal Ref: APP/A2280/D/19/3238361

31 The Everglades, Hempstead, Gillingham, Kent ME7 3PY

- 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 Dean Linekar against the decision of Medway Council.
 - The application Ref MC/19/1326 dated 20 May 2019 was refused by notice dated 12 July 2019.
 - The development proposed is the construction of a part single/part two storey rear extension together with a single storey front extension canopy to side
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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.

Procedural Matter

3. The description of the development used above reflects that used in the Council's Decision Notice and the appeal forms as that is more accurate than that description originally used on the application form.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 32 The Everglades, with particular regard to sunlight.

Reasons

5. The appeal site is a two-storey end of terrace property located within The Everglades cul-de-sac. The rear garden of the appeal property and No.32 face north west and therefore the direct sunlight received at the rear of these properties would be limited for some parts of the day by the houses themselves. Furthermore, the neighbouring property No.32 is setback from the rear elevation of the appeal property and this limits the amount of direct sunlight received by the rear windows at No 32 even more.
6. The two-storey element of the proposal would be positioned along the south western boundary of the appeal property and would, according to the plans, protrude 3m from the rear elevation. The siting and height of the proposed

development, even with the set in from No.32 and set down from the main ridge of the appeal property, would inevitably reduce the amount of sunlight coming from the south-west to the rear garden of No.32 and would, I consider, increase overshadowing to an unacceptable degree.

7. The appellant submitted a photograph dated 22 August 2019 which shows the sunlight received by No.32 at 11.07am. The appellant further states this would indicate adherence to paragraph 3.3.17 of the guideline document from BRE¹ (BRE Guidelines), which recommends that for a garden to appear adequately sunlit, at least half of the garden should receive at least 2 hours of sunlight on 21 March. However, due to the sun's higher position in the sky in summer, the amount of sunlight in the garden on 22 August would be greater than that on 21 March. Consequently, this photograph does little to suggest sunlight in the rear garden of No 32 would be satisfactory if the proposal were built.
8. Due to the setback of No.32 from No.31, the orientation of the terrace it is a part of, and the path of the sun, I agree with the appellant that any impact on sunlight to the ground floor rear windows and patio doors would most likely be later on in the day, beyond 4.00pm. As such, the impact of the proposal on sunlight received by the ground floor rear windows and patio doors at No.32, between 12.00pm to 4.00pm, would not be exacerbated.
9. The Council do not raise any concerns regarding the proposed rear and front single storey extensions and canopy to the side, and I have no reason to disagree.
10. In summary, although the proposal would not impact the sunlight received to the ground floor rear windows at No.32, this would not outweigh the harm resulting from the reduction in sunlight and increased overshadowing to the rear garden of No.32 caused by the development. This would result in the living conditions of the occupiers of No.32 being unacceptably harmed. The development would therefore fail to accord with Policy BNE2 of the Medway Local Plan, Adopted May 2003, which seeks to ensure development does not significantly impact upon the amenities of the occupiers of nearby properties. This is further echoed in paragraph 127f of the National Planning Policy Framework.

Other Matters

11. The appellant refers to a fallback position of approved planning permission Ref: MC/19/2017. The appellant states this extant permission is the same as the appeal proposal, except that it does not include the rear two storey element. As it is the two storey aspect which is harmful, this fallback position does nothing to advance the case for the proposal before me.

Recommendation and Conclusion

12. 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

¹ Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice

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