



Appeal Decision

Site visit made on 28 January 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/A2280/W/19/3238712

80 Avery Way, Allhallows, Rochester ME3 9PZ

- 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 J S Sathi against the decision of The Medway Council.
 - The application Ref MC/19/0889, dated 29 March 2019, was refused by notice dated 4 July 2019.
 - The development proposed is the erection of a 2-bed maisonette with off-road parking.
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Main Issues

1. The main issues are the effect of the development on:
 - the living conditions of future occupiers, and;
 - highway safety

Procedural Matters

2. The appellant has asked for the submitted drawings JS/2 and JS/3, dated September 2018, to be superseded by the revised drawings JS/2 and JS/3, dated June 2019. As the latter drawings were submitted too late to be considered as part of the Council's decision-making process, I see no reason to accept them. I have proceeded accordingly with the submitted and timely evidence before me.

Living conditions

3. The appeal site is located within a residential area of brick and tile dwellings which is typified by individual setbacks, grassed amenity corners, shared verges and other landscaped features. There is off-street parking and some on-street parking available in the surrounding roads, including the lay-by directly adjacent the appeal site. Some sections of the highway are marked with double-yellow lines.
4. The host dwelling, 80 Avery Way, is found close to the junction with Avery Way and St Davids' Road. No 80 is a two-storey flat with a main entrance that faces onto a small triangle of tarmac, grassed verge and the parking lay-by on St Davids' Road. The side elevation of No 80 faces onto a service court which includes an electricity sub-station to the rear of the commercial properties and flats facing Avery Road. The service court is protected by a brick wall to the front and side.

5. The proposal is to construct a pitched roof, two-storey dwelling as an extension to the main elevation of No 80 that faces St Davids' Road. There would be a small garden area protected by a close boarded fence to the front of the new dwelling. To provide a parking space for the dwelling the existing planter and wall in this location would be removed and replaced by a close boarded fence. The parking space would be adjacent, and partly within the existing service court area. Three further parking spaces, one to the rear and two to the side elevation of 72 Avery Way, would be provided for an existing pair of two-bedroom flats. A small planted area would remain adjacent St Davids' Road.
6. The submitted drawings show that the proposal would be constructed over the ground and first-floor windows of the existing dwelling, extend across a large part of the plot available, including some ingress into the existing service court beyond, and be in close proximity to an electricity substation.
7. I note from the evidence before me, that the proposal does not meet all of the requirements of the Nationally Prescribed Space Standards 2015 (NPSS) for a dwelling of this size. The submitted drawings show that while the bedroom space might be adequate, the living space and kitchen are less than ideal in terms of size and space for the purposes of everyday living, such as storage and circulation. Moreover, both the kitchen and the lounge have a single-aspect outlook that would likely lead to diminished levels of sunlight and daylight for future occupiers. Therefore, I conclude that the proposal, as a result of internal size, outlook and daylight and sunlight levels, would affect the amenity of future occupiers.
8. Furthermore, whether the proposal meets the NPSS or not, the dwelling on this corner location, despite the planted area, would appear cramped in comparison to the surrounding development which is relatively spacious and includes generous shared amenity spaces. Indeed, the bulk and mass of the building would lead to a sense of enclosure for future occupiers due to its' proximity to the electricity sub-station and the relative closeness of the surrounding dwellings.
9. Moreover, while the proposal shows a private garden space it falls short of any minimum standards as set down in the Medway Housing Standards (interim) November 2011 (MLP). Consequently, the future occupiers, of this potentially family sized accommodation, would not have sufficient out-door amenity space for the purposes of everyday living such as, but not limited to, drying washing, sitting out, gardening or recreation.
10. I acknowledge that the proposed development might well resolve some of the issues of neglect and disrepair currently associated with the appeal site. However, the scale of the proposal, in combination with the inadequate external and internal space would harm the living conditions of future occupiers
11. Therefore, the proposal is contrary to Policy BNE2 of the MLP which states, amongst other things, that all development should secure the amenities of its future occupants, and protect those amenities enjoyed by nearby and adjacent properties. For similar reasons the proposal conflicts with Paragraph 127(f) of the National Planning Policy Framework (the Framework) which aims include that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Highway safety

12. There are four parking spaces associated with the proposal. Whether one parking space would be sufficient or not for the proposed two-bedroom 'maisonette', the overall scheme is set out in such a way that would result in the loss of some on-street parking. I noted on my site visit that the adjacent lay-by appears to provide parking for at least 3 vehicles, some of which are likely to be used by the customers of the nearby convenience store. However, both the parking space for the new dwelling, and a further space to the rear of No 72 would be accessed across the lay-by and/or path. As such the proposal would compromise the existing configuration of the lay-by, and thereby reduce the number of on-street parking spaces available in the immediate location. Indeed, any crossovers needed to access the proposed parking spaces would not only reduce the size of the lay-by but also disrupt the current pathway that leads to the shop on Avery Way.
13. Notwithstanding that the proposal necessitates the reduction of the adjacent service court, it is likely that from time to time that some of the court would be needed for deliveries, refuse collection or other activity associated with the commercial units on Avery Way. However, from the evidence before me, and in the absence of any technical parking survey, it is unclear whether the service court has allocated or unallocated spaces that might help to mitigate the reduction in the spaces in the lay-by nearby.
14. Therefore, the proposal is likely to encourage the drivers of vehicles, including the customers and visitors to the commercial units, to seek parking in the surrounding area where spaces might be more readily available. The resultant 'overspill' caused by the proposal would have a detrimental impact on highway safety as a result of vehicles circulating the area in search of a parking space.
15. I noted at my site visit that there are a number of individual garages close to the appeal site. However, I have no evidence before me to suggest that they would be exclusively and permanently available to the occupiers of the new dwelling, or whether such an arrangement would reduce on-street parking demand. As such, I consider the garages of limited relevance to the proposal before me.
16. Therefore, the proposal is in conflict with Policies BNE2, T1 and T13 of the MLP which say that design of development should have regard to traffic generation and not significantly add to the risk of road accidents, and Paragraphs 109 and 127(f) of the Framework which require, amongst other things, that development should be refused if there would be an unacceptable impact on highway safety.

Other Matters

17. I acknowledge the previous Decision¹ the appellant refers to in his statement of case. However, owing to the relative age of the previous Decision, that may well have been considered under a previous development plan, I have given it limited weight. In any case, I have considered the proposed development on the basis of its own planning merits.

¹ APP/A2280/A/04/1159361

18. The appeal site is located within 6km of the North Kent Marshes Special Protection Area/Ramsar site. However, it has not been necessary for me to undertake an appropriate assessment of the proposal under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 given my overall conclusion on the main issues.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR