



Appeal Decision

Site visit made on 4 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th June 2020

Appeal Ref: APP/A2280/W/20/3244754

6 Westcourt Street, Brompton, Gillingham, Medway ME7 5RD

- 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 P Harlow against the decision of The Medway Council.
 - The application Ref MC/19/2770, dated 18 October 2019, was refused by notice dated 12 December 2019.
 - The development proposed is conversion of existing dwelling into 2 flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposal would provide acceptable living conditions for future occupiers with particular regard to light and outlook.

Reasons

3. The Council has not raised concerns in relation to living conditions for occupiers of the smaller flat proposed at first floor level. From the evidence before me, I see no reason to take a different view. My decision therefore focuses on the two-bedroom flat below.
4. This flat would have a dining room and second bedroom at lower ground floor level. There is an existing horizontal slit window to the front of the building which would serve the dining room. However, the window is of limited size and faces onto the street at ground level. There is also a large street tree set close to the front of the building and I saw that these factors serve to significantly restrict natural light reaching the room.
5. A lightwell is proposed to serve the bedroom, but its position between, and in close proximity to, the rear of the building, an existing two-storey rear projection and fencing to the site boundary would limit light received. Given the orientation of the appeal site, shading to the lightwell is also likely to be appreciable during the later part of the day.
6. In the absence of any detailed assessment to demonstrate light levels within these rooms, I consider that natural light levels would be noticeably limited, and the spaces distinctly gloomy.
7. In addition, the small size and internal height of the dining room window and the limited depth of the lightwell would be a substantial barrier to open aspect and opportunities for views from within these rooms. Outlook for occupiers

would therefore be severely compromised, and would result in an enclosed and oppressive environment.

8. I acknowledge that the proposed flat would accord with guideline internal space standards. There would also be additional living space within the first floor of the building where windows would provide suitable light and outlook to these rooms. However, the bedroom and dining room would form an important part of the overall accommodation within the flat. Irrespective of the potential for compliance with the Building Regulations on matters of ventilation and fire escape, I find that both light and outlook for the rooms at lower ground level would unacceptably compromise living conditions for future occupiers.
9. The appellant has commented that many properties include rooms below ground level and refers to approval given for flats adjacent to the site. However, no specific details have been provided to enable meaningful comparison to the circumstances of the appeal before me. I have in any case determined the appeal on its own specific merits.
10. Taking the above factors into account, I conclude that the unsatisfactory outlook and light provided for the proposed two-bedroom flat would result in unacceptable harm to the living conditions of future occupiers of the development. The proposal would therefore conflict with Saved Policy BNE2 of the Medway Local Plan 2003 which does not refer explicitly to outlook, but nevertheless includes a requirement that development secures the amenities of future occupants. Although the proposal may comply with many of the criteria listed within paragraph 127 of the National Planning Policy Framework, there would similarly be conflict with the requirement within this paragraph for development that provides a high standard of amenity for existing and future users.

Other Matters

11. The appeal site is located within 6km of the Thames Estuary and Marshes and Medway Estuary and Marshes Special Protection Area (SPA) areas and Ramsar Sites. These are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations impose a duty on the competent authority to consider whether a proposal may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment (AA).
12. At appeal stage, the Council has suggested that a completed Strategic Access Management and Monitoring agreement and tariff paid towards strategic mitigation measures as part of a subsequent planning application on the site¹ overcome the second reason for refusal. However, as the competent authority, I would need to be satisfied that the proposal would not adversely affect the integrity of the SPA/Ramsar Sites. Had I found the proposal to be acceptable in terms of the living conditions of future occupiers, I would have found it necessary to investigate this matter in greater detail as part of my AA. However, given the harm identified above and that I am dismissing the appeal for other reasons, I have not pursued this matter further as it could not be determinative.

¹ Application reference MC/20/0096

13. The appeal site is within the Brompton Lines Conservation Area (CA). I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of this area in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the minor nature of the proposed external alterations which would only affect the rear of the building, I am satisfied that the character and appearance of the CA would be preserved. However, the absence of harm weighs neither for nor against the proposal.

Conclusion

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

J Bowyer

INSPECTOR