
Appeal Decision

Site visit made on 26 May 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Appeal Ref: APP/A2280/W/19/3244513

Sanlin, 142 Snodhurst Avenue, Horsted, Chatham ME5 0TB

- 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 Tony Smith against the decision of The Medway Council.
 - The application Ref MC/19/1022, dated 15 April 2019, was refused by notice dated 29 July 2019.
 - The development proposed is new 3 bedroom dwelling on land rear of 142 Snodhurst Avenue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of occupiers at 144 Snodhurst Avenue and future occupiers of the development, particularly with regards to outlook; and
 - the character and appearance of the area.

Reasons

Living Conditions

3. The development proposal is for a new 3 bedroom dwelling, with its own access to the side of 142 Snodhurst Avenue, located within the back garden of the existing plot.
4. Concerns have been raised regarding living conditions, particularly in relation to outlook from the proposed first floor single bedroom and also impact of the proposal on the living conditions of neighbouring properties, namely 144 Snodhurst Avenue.
5. Policy BNE2 of the Medway Local Plan 2003 (the Local Plan) states that all development should protect the amenities enjoyed by nearby and adjacent properties, which include privacy, and secure the amenities of future occupants, which include sunlight and daylight.
6. The proposed design of the single bedroom would protect the amenities enjoyed by nearby and adjacent properties, including 144 Snodhurst Avenue, particularly in terms of privacy by proposing the inclusion of a narrow and high window which would greatly limit opportunities for the nearby properties to be

overlooked. Furthermore, the proposed design would not directly overlook nearby properties, therefore minimising potential issues of loss of privacy.

7. Nevertheless, as a consequence, the proposal would fail to provide an adequate level of outlook from the bedroom itself. Although the proposed design would allow for some sunlight and daylight to enter, the proposed window, due to its dimensions and height, would provide very limited outlook.
8. Furthermore, particularly considering that a single bedroom in a three bedroom house is likely to be occupied by a child or a young member of a family, it is reasonable to assume the bedroom would be occupied for substantial periods of time and for a range of different activities. This further highlights the need to provide a healthy environment with acceptable levels of outlook at eye level.
9. I therefore conclude that the proposed development would have a harmful impact on the living conditions of future occupiers of the development with regards to outlook and, in that regard, be in conflict with policy BNE2 of the Local Plan, which aims to protect the amenity of future occupiers and also paragraphs 70, 124 and 127(f) of the National Planning Policy Framework (the Framework).

Character and appearance

10. The appeal site is located to the rear of 142 Snodhurst Avenue in a parcel of land which is part of the curtilage of the existing dwelling. The area is predominantly residential in character and it includes a mix of detached and semi-detached properties, with frontages to the highway, set broadly in a similar alignment a short distance back from the street.
11. The size of the plots along Snodhurst Avenue and adjacent streets is variable. Nevertheless, most detached properties are located in spacious plots, while most semi-detached and apartment blocks are located in more densely constructed plots closer to the highway.
12. 142 Snodhurst Avenue is a detached house located in one of the larger plots along the street. Both properties on either side of No 142 are also detached houses located within fairly spacious plots. The plot slopes significantly towards the rear of the garden which results in the existing dwelling and front of the plot being in a raised position in relation to the rest of the site. There are mature trees and bushes within and near the appeal site which contribute to the area's pleasant verdant quality.
13. Although the presence of 'backland' development in the area has been mentioned in the minutes of the Medway Council Meeting of Planning Committee, dated 24 July 2019, no clear evidence has been presented to indicate that this kind of development is part of the character and appearance of the area. Therefore, in accordance with what I observed when I conducted my site visit, I define the character of the area as set above, with properties having frontages to the highway and set in a similar alignment.
14. Nevertheless, Policy H9 of the Local Plan does allow for 'backland' development where it would not threaten the comprehensive development of a wider area, subject to a series of criteria. These criteria include no loss of privacy from overlooking adjoining houses or back gardens, acceptable vehicular access, no significant increase in noise or disturbance to adjacent residents from traffic

- using the access, existing natural features are retained, adequate “amenity” space and the character and “amenity” of the area as a whole is maintained.
15. The site is largely located some way to the rear of the existing dwelling that fronts onto the street. Consequently, and given the sloping topography of the land, the proposed development would be largely obscured from the public domain, with only the new proposed access drive easily perceived from the public highway.
 16. The development would result in a significant increase in the density of the urban form. However, although the proposed development would not be consistent with the existing pattern and form of development, it would not have an unduly significant influence on the character and appearance of the area due to its subordinate position in the relation to the existing dwelling and surrounding development.
 17. Rather than drawing directly from the design characteristics of buildings in the surrounding area, the proposed development would create a fresh, new entity in its own right. Overall it has a simple but attractive design, which due to the particular context of the appeal site, as outlined above, would be appropriate in this instance. Furthermore, the proposed design would not directly overlook nearby properties, therefore minimising potential issues of loss of privacy, by not including any windows in the façade of the building facing the road.
 18. The lack of direct road frontage sets the appeal proposal at odds with the majority of other dwellings in the area. The proposed access way is rather long and would result in an increase of the built form and the removal of some planting. Nonetheless, the proposed new access would not be readily apparent from Snodhurst Avenue due to it being partly located along the existing access to 142 Snodhurst Avenue and due to the topography of the site. For these reasons and those outlined above, the proposal at large would not be overly prominent within the street scene.
 19. A mature walnut tree located at the rear of the existing garden is subject of a Tree Protection Order. Considering the proposed development is at a reasonable distance from the tree, the development proposal would be able to be built in the site while retaining the tree, which is included in the design of the proposal. Furthermore, the preservation of this mature tree, alongside with the proposed new dwelling’s garden, would also contribute to ensuring that the verdant character of the site is, as a whole, maintained and the visual impact of the development minimised.
 20. Consequently, the proposed development, including the lack of road frontage, would not result in any particular harm to the established character of the area nor erode local distinctiveness.
 21. For the foregoing reasons, I conclude that the proposed development would not have an adverse effect on the character and appearance of the area. It would not therefore conflict with relevant objectives in Policies BNE1, which states the general design principles for development, BNE2, which seeks to protect the amenities of occupants of future developments and of nearby properties, and H9, which sets criteria for “backland” development of the Local Plan or objectives 70, 124 and 127(f) of the Framework.

Other Matters

22. The appeal site falls within the "Zone of Influence" of the North Kent Marshes SPA/Ramsar Sites.
23. It is anticipated that, without mitigation, new residential development in this area and of this scale could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.
24. Therefore, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) would be required were I minded to allow the appeal. Nevertheless, considering that the appeal is to be dismissed on other issues mentioned in this decision, no further consideration is required on this matter as planning permission is not being granted.

Conclusion

25. Although I have not found the proposal to have an adverse impact on the character and appearance of the area, I have found that the appeal scheme would not provide adequate living conditions for future occupants.
26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Andre Pinto

INSPECTOR