



Appeal Decision

Site visit made on 20 July 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Appeal Ref: APP/V2255/W/19/3243390

19 Albany Road, Sittingbourne ME10 1EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Structural & Weld Testing Services Ltd against Swale Borough Council.
 - The application Ref 18/506274/FULL, is dated 3 December 2018.
 - The development proposed is redevelopment of workshops and offices with change of use to C3 residential creating 7 no. 1-bed Flats with amenity space, wheelie bin and bicycle storage, visitor parking and landscape detail.
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Decision

1. The appeal is dismissed and planning permission is refused for both the 4 dwelling scheme and the 7 dwelling scheme.

Background and Main Issues

2. The description of the proposed development I have used has been taken from the planning application form. However, during the course of the Council's consideration of the application the proposal was amended to a residential development comprising 4 dwellings.
3. This appeal has been lodged following the Council's failure to determine the planning application. Subsequent to the appeal being lodged, the Council presented a report to its Planning Committee for the consideration of the amended 4 dwelling scheme. That report forms the Council's Statement of Case. The Council in their appeal statement has put forward reasons for refusal had it been in a position to determine the 4 dwelling scheme. The appellant is appealing because the Planning Committee were not asked to consider the 7 one-bed flat scheme as originally submitted. I have been provided with the proposal drawings pertaining to both the 4 and 7 unit schemes and I shall deal with both.
4. I consider the main issues relating to both proposals are the effect of the proposed developments upon: -
 - (a) The living conditions of occupiers;
 - (b) The character and appearance of the area; and

(c) The Swale Special Protection Area (SPA).

Reasons

Living conditions of future occupiers - 4 dwelling scheme

5. In respect of the proposed detached two storey dwelling outlook from part of its ground floor living space and a first-floor bedroom would be toward the flank wall of one of the other proposed dwellings. These windows would be very close to the flank elevation and that elevation would be extremely dominant in the outlook from the habitable living spaces of the proposed detached two storey dwelling. In addition, given the orientation of the detached dwelling and its proximity to the proposed adjoining property, there would likely to be restricted daylight/sunlight to the internal living space making the habitable living space a gloomy place in which to reside. All of these internal rooms are living spaces in which the occupiers are likely to spend a reasonable amount of their time. The restricted outlook and gloomy living environment would not provide satisfactory living conditions for future occupants.
6. All windows relating to the proposed semi-detached houses would face north and, as such, there would not be any direct sunlight to the internal living environment. The orientation of the dwellings would result in the outdoor living spaces being overshadowed by the properties themselves over a considerable part of the day. The plans show the site would be enclosed by a tall boundary wall. I also observed that the existing trees at the Avenue of Remembrance are very close to the boundary of the site. The trees are tall and their canopies oversail the appeal site. Both the wall and trees would be in close proximity in the outlook from the ground floor and outdoor living spaces of these dwellings and would be extremely dominant in outlook. The lack of sunlight, gloomy living environments and restricted outlook would not provide satisfactory living conditions for the future occupants of these dwellings.
7. Further to the above, a first floor bedroom window within the detached dwelling would allow for elevated and direct observation of the private outdoor living environments of the proposed semi-detached houses. As a consequence, those using these outdoor spaces would experience a perception of being overlooked whilst using their private gardens. This would be harmful to the living conditions that the occupiers of these properties should reasonably expect to enjoy.
8. The proposed unallocated parking provision to serve the development would be positioned next to the detached single storey dwelling. Furthermore, the bike storage relating to the entire development would be sited to the rear of this dwelling. Those accessing their vehicles and bikes would pass by all those windows relating to this property. This would not provide the occupiers of the detached single storey dwelling with an appropriate level of privacy. Furthermore, the comings and goings by unrelated persons of the detached single storey dwelling would cause disturbance and nuisance to the future occupiers. The occupiers of this property would not be provided with satisfactory living conditions.
9. I acknowledge that these properties would be suitable for family occupation. The Council has expressed concern over the lack of adequately sized and appropriately located private amenity spaces. I have not been directed to any

specific design criteria or standards pertaining to the size of outdoor living spaces that might confirm this to be the case. Notwithstanding this, the detached single storey dwelling would not be provided with its own dedicated outdoor private space and I do not consider that this would provide a satisfactory living environment for the occupiers of this dwellinghouse.

10. For the above reasons, I conclude that the proposed 4 dwelling development would not provide satisfactory living conditions for future occupiers. The proposal would therefore conflict with Policy DM14 of the Swale Borough Local Plan 2017 (the Local Plan) that seeks, amongst other matters, development to cause no significant harm to amenity.

Living conditions of existing adjoining and future occupiers - 7 dwelling scheme

11. I note that this scheme proposes high level windows within its north east and north west elevations. Whilst this may not allow direct overlooking of the adjoining dwelling, the occupiers are likely to experience the perception of being overlooked. This would be harmful to the residential amenities the occupiers of that property should reasonably expect to enjoy.
12. Similarly to the 4 dwelling scheme, the orientation of the flats would result in the communal outdoor living space being overshadowed by the properties themselves over a considerable part of the day. The trees along the Avenue of Remembrance would be in close proximity in the outlook from a number of the ground floor units, as well at the communal outdoor living space. The trees would be extremely dominant in outlook. The lack of sunlight and gloomy living environments would not provide satisfactory living conditions for the future occupants of these dwellings.
13. The proposed unallocated parking provision would be positioned next to the flat closest to Albany Road. Those accessing their vehicles would pass in close proximity windows relating to this property. Furthermore, all occupiers would pass by this property to access the residential units behind it. This arrangement would not provide the occupiers of the front dwelling with an appropriate level of privacy and would cause disturbance and nuisance to the future occupiers. The occupiers of this property would not, therefore, be provided with satisfactory living conditions.
14. The appellant comments that this flattened development would comply with the Council's adopted supplementary planning guidance relating to space standards. I have no substantive information before me that might indicate otherwise.
15. For the above reasons, I conclude that the proposed 7 dwelling development would not provide satisfactory living conditions of existing adjoining and future occupiers. The proposal would therefore conflict with Policy DM14 of the Local Plan that seeks, amongst other matters, development to cause no significant harm to amenity.

Character and appearance - 4 and 7 dwelling scheme

16. The appeal site falls within an Area of High Townscape Value (AHTV) designation. Policy DM36 of the Local Plan sets out that in such areas development should "provide for the conservation or enhancement of the local historic and architectural character, together with its green spaces, landscaping and trees".

17. The appeal site is situated at the end of Albany Road at the junction with Avenue of Remembrance. The residential properties within Albany Road are made up of detached, semi-detached and terraced houses that front onto Albany Road and have a set back from the pavement with gardens to the rear. In contrast the appeal site comprises a single storey office premises at the front of the site and hosts commercial workshops behind covering the depth of the site.
18. I am mindful that the redevelopment of the site in respect of both proposals would reflect the location and size of those existing structures within the site. Nonetheless, neither of the proposed developments would reflect the distinctive local character of road frontage residential development along Albany Road. The layout of the residential developments would, therefore, be out of keeping and would not conserve or enhance the AHTV's local residential character. Consequently, the proposed developments would be harmful, both to the character of the area, as well as to its visual appearance. Furthermore, given the sites prominent location on a busy highway route, the harm arising from the proposed developments would be highly visible.
19. The group of trees adjacent the site is an extremely prominent feature of the Avenue of Remembrance street scene. They make a significant contribution to the verdant appearance of the locality and have no doubt contributed to the designation of the AHTV that seeks to conserve green spaces, landscaping and trees. I have identified that the trees would likely create gloomy living environments for some of the proposed units within both schemes. To improve their living environments, it would be extremely likely that it would result in pressure to remove the trees. If this were to take place this would have a significantly visual harmful impact upon the character and appearance of the area and the AHTV. Such harm would again be highly visible within the environs of the Avenue of Remembrance.
20. For the above reasons, I conclude that both proposed developments would be harmful to the character and appearance of the area. The proposals would, therefore, conflict with Policies CP4, DM14 and DM36 of the Local Plan. These policies seek, amongst other matters, development to be of high quality design; be appropriate to its surroundings by enriching the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening sense of place; and, to retain and enhance features which contribute to local character. In addition, the proposals would not conserve or enhance the local historic and architectural character of the AHTV, its green spaces, landscaping and trees.

Swale SPA

21. The Council has identified that the site lies within 6km of the Swale SPA and advises that a contribution is required to mitigate the potential recreational disturbance impacts of the proposed development upon that protected area. Notwithstanding this, given that I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail or require an appropriate assessment to be undertaken to assess either development's effect upon the integrity of the protected habitats.

Other Matters

22. I acknowledge that the redevelopment of the site has been subject to the Council's pre-application advice service. Some concern has been raised about the Council's processing of the planning application and the number of different Council case officers that have been involved since the original submission of the planning application. However, this is a matter that, if necessary, should be raised with the Council away from this appeal. In any event, these concerns would not lead me to alter my findings above.
23. Interested parties raise other objections to the proposal including highway concerns. However, given my findings in relation to the main issues, these are not matters that have been critical to my decision.

Conclusion

24. Having regard to my findings, the appeal should be dismissed and planning permission refused for the 4 dwelling and 7 dwelling scheme.

Nicola Davies

INSPECTOR